TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

No. 397.

HANNAH RILEY, APPELLANT,

vs.

WILLIAM B. WELLES.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE DISTRICT OF IOWA.

FILED DECEMBER 17, 1869.

S

APP

Feb 14 1870

Submitted. 44

TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

No. 397.

HANNAH RILEY, APPELLANT,

vs.

WILLIAM B. WELLES.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE DISTRICT OF IOWA.

FILED DECEMBER 17, 1869.

Argument for Appellee

SUPREME COURT OF THE UNITED STATES.

No. 397.

HANNAH RILEY, APPELLANT,

vs.

WILLIAM B. WELLES.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE DISTRICT OF IOWA.

INDEX.

	Original.	Print.
Original notice State court	1	1
Bill in chancery from Webster district court	3	2
Affidavit for change of forum	11	3
Bond for change of forum	12	4
Petition for removal to United States circuit court	15	4
Bill in United States circuit court	19	5
Answer of defendant	37	10
Withdrawal of defendant's appearance	39	10
Motion to set aside rule, and order of court thereon	40	11
Affidavit of defendant	41	11
Record entry and motion to correct transcript	43	12
Order to appoint commissioners to take depositions	44	12
Record entry	45	12
Replication of plaintiff	46	12
Amended transcript	48	13
Record entry	49	13
Commissioner's report of evidence	51	14
Deposition of A. K. Welles	54	14
Exhibit A	62	16
Deposition of John Browne	83	22
Stipulation as to evidence	109	27
Plaintiff's exhibits:		
B.—Deed to company	112	28
C.—Deed to plaintiff	113	29
D.—Department correspondence	120	30
E.—Location of grant	127	36
F.—Certified lists of land	129	37
G.—Department letters	174	56

	Original.	Print.
Plaintiff's exhibits continued:		
H.—Secretary Thompson to governor of State	176	57
H.—R. Johnson to McClelland	184	59
J.—Department correspondence	185	60
K.—Secretary to Commissioner	190	62
L.—Secretary to Commissioner	192	63
M.—Governor Lowe to President, and Butterfield to President	194	64
N.—Department correspondence	197	66
N½.—Resolution accepting grant	204	73
N½.—Resolution to settle	206*a*	73
O.—Official letters and general deed to Des Moines company	207	75
P.—Riley pre-emption papers and patent	212	78
Q.—Articles of incorporation	220	81
R.—Acceptance of offer to settle with Des Moines company	228	83
S.—Contract with Des Moines company	230	85
S.—Supplemental contract	239	91
T.—Rulings of Secretary Browning	242	93
Defendant's exhibits:		
No. 1.—Act approved March 30, 1866	244	94
No. 2.—Settlement of land grant by State commissioner, May 23, 1866	245	96
No. 2.—Settlement with State and Des Moines valley road	249	100
No. 2.—Report of Kilbourne	252	104
No. 3.—Resolution approved April 7, 1862	257	109
No. 4.—Lists of lands selected under the act of July 12, 1862	276	121
No. 4.—Joint resolution of March 2, 1861	279	122
No. 5.—Letter from Commissioner to receiver	287	124
No. 6.—Letter from Commissioner to Litchfield	288	124
No. 7.—Secretary to Commissioner	289	125
No. 8.—Commissioner to register State land office	290	126
No. 9.—Secretary to Commissioner, May 9, 1868	291	126
Depositions of Woolsey Welles, C. B. Richards, and Hannah Riley	306	130
List of Des Moines River lands above the Raccoon Fork, sold by the State of Iowa	337	139
Decree of circuit court	383	181
Defendant's bill of exceptions	392	183
Petition for appeal, and order of court	396	184
Citation	398	185
Appeal bond	399	185
Clerk's certificate	402	186

a Pleas in the circuit court of the United States of America for the district of Iowa, held at the court-house in the city of Des Moines, in the district aforesaid, before the honorable J. M. Love, district judge of said district, and in the absence pro tempore of the Hon. Sam. F. Miller, one of the justices of the Supreme Court of the United States, sole judge of said circuit court, on Friday the 12th day of November, A. D. 1869, at the October term of said court, and of our independence the 94th.

GEORGE B. CORKHILL, *Clerk.*

Petition in equity.

WILLIAM B. WELLES
vs.
HANNAH RILEY.

DISTRICT OF IOWA, *ss:*

Be it remembered that on the first day of February, in the year of our Lord one thousand eight hundred and sixty-nine, came William B. Welles, by Messrs. Finch, Rivers, and Ellwood, his attorneys, and filed in the office of clerk of the circuit court of the United State for the district of Iowa a transcript of the record and proceedings of the district court of Webster County, Iowa, which said transcript is in the words and figures following, to wit:

1 In the district court of Webster County, Iowa, October term, A. D. 1868.

WM. B. WELLES, PL'T'FF,
against
HANNAH RILEY, DEFENDENT.

To said defendant:

You are hereby notified that on or before the 30th day of September, A. D. 1868, there will be on file in the office of the clerk of the district court of Webster County, Iowa, the petition of William B. Welles, the plaintiff in this action, claiming of you that his title to the northwest quarter (¼) of section number thirty-three, (33,) township eighty-nine (89) north, range twenty-eight (28) west, 5th P. M., in Webster County, Iowa, be quieted; and that all patents, deeds, certificates of pre-emption, tax titles, and other instruments in writing, under which you claim title thereto, or an interest therein, be cancelled and set aside, and declared of no effect or validity, and that the title of the said plaintiff therein and thereto be confirmed, and for other relief; you are
2 also notified that unless you appear thereto and defend before noon of the second day of the term of the said district court of Webster County, to be held on the 2d Monday in October, A. D. 1868, a default will be entered against you, and judgment rendered thereon, as prayed in said petition.

FINCH & RIVERS, & J. M. ELLWOOD,
Attorneys for Plaintiff.

(Endorsed as follows:)

This notice came into my hands on the 29th day of April, 1868, and I certify that I personally served the same on the within-named Hannah Riley, by reading the same to her and delivering her a copy of the same in Fort Dodge, Webster County, Iowa, on the 10th day of August, 1868.

JACOB WOLY,
Sheriff of Webster County, Iowa.

3 District court, Webster County, Iowa.

WILLIAM B. WELLES, PLAINTIFF,
vs.
HANNAH RILEY, DEFENDANT.

To the district court of Webster County, Iowa:

The petition of William B. Welles, the above-named plaintiff, respectfully shows to this court—

First. That pl't'ff is the owner of, and has and holds the title in fee to, the real estate situate, lying, and being in the said county of Webster, described as follows, to wit: The northwest quarter (¼) of thirty-three, (33,) township eighty-nine (89) north of range twenty-eight (28) west, 5th P. M., Iowa, together with all and singular the hereditaments
4 and appurtenances.

Second. And your petitioner further shows the said above-described tract, piece, and parcel of land is of great value, and of the value at least of four thousand five hundred dollars, and that the said defendant claims to have a title thereto, paramount to that of your petitioner, and to hold the same adversely to your petitioner.

Third. And your petitioner further shows that said tract, piece, or parcel of land above-described was heretofore, to wit, on or about the 3d day of May, 1858, by the State of Iowa, by a deed or patent, duly executed, granted, and conveyed to "the De Moine Navigation and Railroad Company," a corporation duly created, organized, and established under the laws of the State of Iowa about the year 1854; and that afterwards, to wit, on or about the day of , the said land was conveyed by said company by deed to your petitioner, who
5 still holds the same under and by virtue of said conveyance, and that the title of your petitioner in and to said tract, absolute and unconditional, was fully established and confirmed by the joint resolution of Congress of March 2d, 1861, entitled "Joint resolution to quiet titles in the State of Iowa," and the act of Congress, approved July 12th, 1862, entitled "An act confirming a land claim in the State of Iowa, and for other purposes," and the action of the United States and the State of Iowa, and their duly authorized and constituted agents thereunder.

Fourth. And your petitioner further shows that the said defendant claims title to the said tract aforesaid, under and by virture of an alleged or pretended patent issued to her by the President of the United
6 States, after the conveyance of the same as aforesaid, to the said "De Moine Navigation and Railroad Company," by the State of Iowa, and on or about the day of , and when the United States had no right, title, or interest in and to said land, which said alleged or pretended patent is now in the hands of the defendant, a copy of which your petitioner is now unable to give or set forth, but your petitioner expressly alleges and avers that the said patent was corruptly and fraudulently procured, and by frauds practiced upon the executive officers of the United States, allowing and granting the same as aforesaid. That the affidavits and papers upon which said patent was allowed, granted, and issued, contained false and erroneous statements in relation to the filing of declaratory statements and settlement, & occupation
7 by the defendant upon said tract, without which false and erroneous statements the said patent could not have been obtained; and that said affidavits were obtained by the procurement of the said defendant in connivance and collusion with the persons making the same, for the purpose of defrauding your petitioner and securing and obtaining the said patent.

Fifth. And your petitioner further alleges and avers that the said alleged or pretended patent so issued to the defendant by the government of the United States, and its executive officers as aforesaid, is without any force or validity; that the same was so issued after the government of the United States had certified the said land to the State of Iowa, and after the United States had parted with all their
8 title thereto, and after your petitioner had acquired the title thereto; that the officer or officers so issuing and executing the said patent, & the certificate upon which the same was based, to the said defendant as aforesaid, had no authority whatever so to do; that in so doing they acted contrary to and in violation of law, for the reason that said tract, piece, or parcel of land was not, at the time of the granting or issuing of the said patent & certificate to the said defendant as aforesaid, subject or liable to pre-emption under the pre-emption laws of the United States, and all their acts in the premises, as well as the said patent & certificate, are void and confer no rights upon the defendant, and give her no title whatever to the said land, and although the
9 said patent and certificate, for the reasons aforesaid, confer no title to the said land upon the said defendant, and vest no title thereto in her, yet the same create and constitute a cloud upon the title of your petitioner to the said land which should be removed.

Your petitioner therefore prays that the said alleged or pretended patent to the said land, so issued to said defendant by the government of the United States and its executive officers as aforesaid, and under which defendant now claims title to the said land be cancelled and set aside, and by a decree of this court declared of no force, or validity, or effect, and that the title in and to said land be decreed to be wholly and absolutely in your petitioner, and that your petitioner may have such
10 other & further relief in the premises as shall be agreeable to equity and good concience.

FINCH & RIVERS, & J. M. ELLWOOD,
Solicitors for Plaintiff.

(Which was endorsed as follows:)
Filed Sept. 30th, 1868.

W. LUMPKIN, *Clerk.*

11 District court, Webster County, Iowa.

WILLIAM B. WELLES *vs.* HANNAH RILEY. } Affidavit.

STATE OF NEW YORK, *New York County, ss:*

I, William B. Welles, being duly sworn, do depose and say that I am the plaintiff in the above-entitled action; that the same is now pending in the district court of Webster County, Iowa; that I am a citizen of the State of New York, and that the defendant is a citizen of the State of Iowa; that the matter of controversy and dispute between this plaintiff and the defendant exceeds the sum of five hundred dollars, exclusive of costs; that I have reason to believe and do believe that from prejudice and local influence I will not be able to ob-
12 tain justice in the State court of Iowa in which this action is pending and untried.

W. B. WELLES.

Subscribed and sworn to by William B. Welles, before me, this sixth day of October, A. D. 1868.

[L. S.]

EDWIN B. CAREY, JUN'R,
Commissioner for Iowa in New York.

Know all men by these presents, that we, William B. Welles, as principal, and George S. Ringland, as surity, are hereby held and firmly bound unto Hannah Riley in the penal sum of two hundred fifty dollars, lawful money of the United States, to the payment of which, well and truly to be made, we bind ourselves, jointly and severally, firmly by these presents.

13 The condition of this obligation is such, that if William B. Welles shall enter or cause to be entered in the next circuit of the United States, to be held in and for the district of Iowa copies of all process, pleadings, depositions, testimony, and other proceedings in a certain suit or action now pending in the district court of the county of Webster, and the State of Iowa, in which William B. Welles is plaintiff and Hannah Riley is defendant, and shall do such other appropriate acts as by the act of Congress approved July 26, 1866, entitled "An act for the removal of causes in certain cases from State courts," are required to be done upon the removal of a suit into the United States court, then this obligation to be void; otherwise of force.

WILLIAM B. WELLES.
G. S. RINGLAND.

STATE OF IOWA, *Webster County, ss:*

14 I, George S. Ringland, of said county, do depose and say that I am surity in the foregoing bond; that I am a resident and freeholder of and within the State of Iowa, and am worth the amount of the within bond over and above all my liabilities and my property not exempt from execution.

G. S. RINGLAND.

Subscribed and sworn to before me this 12th day of October, A. D. 1868.

[SEAL.] THOS. SARGENT,
Notary Public.

(Which bond was endorsed as follows:)

The within bond is approved by me.

D. D. CHUSE,
Judge of the 11th District of Iowa.

15 District court, Webster County, Iowa.

WILLIAM B. WELLES *vs.* HANNAH RILEY. } Petition for removal of cause into the circuit court of the United States.

To the district court of Webster County, Iowa:

The petition of William B. Welles, the plaintiff in the above-entitled action, respectfully shows that he is a citizen of the State of New York; that the defendant is a citizen of the State of Iowa; that this action is now pending in the district court of Webster County, Iowa; that the matter of dispute herein exceeds the sum of five hundred dollars exclusive of costs.

And your petitioner further shows that he has in this court his affidavit as required by the act of Congress approved March 2, 1867, entitled "An act to amend an act entitled 'An act for the removal of causes

16 in certain cases from the State court,' approved July 27, 1866."

And your petitioner files this his petition praying for the removal of this suit into the next circuit court of the United States, to be held in

and for the district of Iowa; and he herewith offers the surity required by the said above entitled act.

FINCH, RIVERS, & J. M. ELWOOD,
Attorneys for Plaintiff.

(Endorsed as follows:)
Filed Oct., 16, 1868.

W. DUMFTINE, *Clerk.*

The prayer of the within petition is granted, & this cause transfered to the United States circuit court.

D. D. CHASE,
Judge of the 11th District of Iowa.

17 *Ch.* 270, *Chan.*

In the district court of Webster County, Iowa, Oct. 16, 1868.

WM. B. WELLES }
vs.
HANNAH RILEY. }

And now on this day comes the plaintiff by his attorney, Finch, Rivers & Ellwood, & moves the court for a change of forum to the circuit court of the United States as for stipulation on file, and the court being fully advised in the premises grants said motion and the cause ordered transfered.

STATE OF IOWA, *Webster County, ss:*

I, W. Lumpkin, clerk of the district court in and for said county and State, do hereby certify that the above is a correct copy of the petition, original notice, and record entries in full, had in this case as shown by the papers & records in my office.

Witness my hand & official seal at office in Fort Dodge, Iowa, Jan., 27th, A. D. 1869.

[SEAL.]

W. LUMPKIN,
Clerk District Court.

18 (Endorsed as follows:)

Transcript of proceedings in 11th judicial district of Iowa & order of transfer.

Filed Feb., 1st, A. D. 1869.

GEORGE B. CORKHILL, *Clerk.*

On the same day, to wit, the 1st day of February, A. D. 1869, came said plaintiff by his solicitors and filed in said clerk's office his bill in said entitled cause, which said bill is in the words and figures following to wit:

19 United States circuit court, district of Iowa.

WILLIAM B. WELLES, COMPLAINANT, }
vs.
HANNAH RILEY, DEFENDANT. }

To the judge of the circuit court of the United States for the district of Iowa:

William B. Welles, of the city of New York, and a citizen of the State of New York, brings this his bill against Hannah Riley, of the county of

Webster, and a citizen of the State of Iowa, and thereupon your orator complains and says:

First. That he is the owner of, and has and holds the title in fee to, the real estate situate, lying, and being in the county of Webster, and State of Iowa, described as follows, to wit:

The northwest quarter (¼) of section thirty-three, (33,) township
20 eighty-nine (89) north, of range twenty-eight (28) west, of the 5th P. M. Iowa, together with all and singular the hereditaments and appurtenances.

Second. And your orator further shows that the said above-described tract, piece, or parcel of land is situate within five miles of the Des Moines River, in the State of Iowa, and is of great value, and of the value of four thousand five hundred dollars, and that the said defendant claims to have a title thereto paramount to that of your orator, and to hold the same adversely to your orator.

Third. And your orator further shows that the said tract, piece, or parcel of land above described was heretofore, and on or about the 3d day of May, 1858, by the State of Iowa, by a deed of patent duly executed and delivered, granted and conveyed to "the Des
21 Moines Navigation & Railroad Company," a corporation duly created, organized, and established under the laws of the State of Iowa, about the year 1854, and afterwards, and on or about the 13th day of November, 1858, the said "Des Moines Navigation & Railroad Company," by deed duly executed, acknowledged, and delivered, conveyed the said land to your orator, in fee simple. And your orator has ever since held, and now holds, and owns the same.

Fourth. And your orator further shows that on the 8th day of August, 1846, the Congress of the United States passed the act entitled "An act granting certain lands to the Teritory of Iowa to aid in the navigation of the Des Moines River, in said Teritory." That by the first section thereof, there was granted to said Teritory the one equal moity
22 in alternate sections of the public lands remaining unsold, and not otherwise disposed of, encumbered, or appropriated, in a strip five miles in width, on each side of said river, to be selected within said Teritory, by an agent or agents, to be appointed by the governor thereof, subject to the approval of the Secretary of the Treasury of the United States. And by the fourth section of said act it was enacted "that whenever the Teritory of Iowa shall be admitted into the Union as a State, the land hereby granted for the above purposes shall be and become the property of the State, for the purpose contemplated in the act, and no other, provided the legislature of the State of Iowa shall accept the said grant for the said purpose;" that the said grant was duly accepted by the legislature of said State, and the governor
23 thereof appointed agents, who selected the lands, situated in the alternate odd-numbered sections, within the limits of the grant, for and in behalf of the State, and such selections were duly notified to the Commissioner of the General Land Office, and were duly approved by said Commissioner and by the Secretary of the Treasurer of the United States; that such selections and approvals were made within the year 1846, and thereupon on the 17th day of October, A. D. 1846, the Commissioner of the General Land Office instructed the register and receiver in Iowa, having charge of said lands, to reserve from sale or entry of any kind, all the unsold and unappropriated lands in the sections selected by the governor of Iowa, as aforesaid; that on the 23d day of February, 1848, the said Commissioner of the General

Land Office decided that under said grant the State of Iowa
24 was "entitled to the alternate sections within five miles of the Des Moines River, throughout the whole extent of that river within the limits of Iowa," and on the 2d of March, 1849, the Secretary of the Treasurer of the United States decided the said grant extended on both sides of the said river from its source to its mouth, but not to lands on the river in the State of Missouri, and in pursuance of such last-named decision, the said Commissioner, on the 1st day of June, 1849, directed the aforesaid register and receiver in the State of Iowa to withhold from sale all the lands situated in the odd-numbered sections within five miles on each side of the Des Moines River, above the Raccoon Fork; that such order of the Commissioner was received by said register and receiver on the 16th of June, 1849, directed the
25 aforesaid register and receiver in the State of Iowa to withhold from sale all the lands situated in the odd-numbered sections, within five miles on each side of the (Des Moines) river above the Raccoon Fork; that such order of the Commissioner was received by the said register and receiver, on the 16th day of June, 1849, & the said order was adopted and approved by the Secretary of the Treasury of the United States, and by all the other officers of the United States having charge of the public lands, and the same was acted upon and continued and carried out by all succeeding Commissioners of the General Land Office, and by all succeeding Secretaries of the Treasury and the Interior, having charge of the public lands, until the said lands were duly certified and approved to the State of
26 Iowa, under said grant, as herein stated; that all of the said lands, including those herein claimed by your orator, were certified and approved to the State of Iowa, as having passed to it under said grant, by the Commissioner of the General Land Office, and by the Secretary of the Interior in Oct., 1851, & March, 1852, & December, 1853, & Jan., 1854, & such certificates and approvals were, at the dates aforesaid, duly delivered to the State of Iowa by said Commissioners of the General Land Office, with the approval of the Secretary of the Interior, who were duly authorized by law to execute and deliver said certificates; and the same have never been cancelled, or annulled, or revoked, but are still outstanding and in full force; that at the time of the making of said certificates the said lands were duly entered upon the books of the General Land Office at Washington, as granted to the State
27 for the Des Moines River improvement under the said act of August 8, 1846, and the same have always been held as withheld and reserved from sale & pre-emption & private entry, and the said lands have been so lawfully reserved and withheld ever since the 1st day of June, 1849, the said order of reservation having never been cancelled or revoked; that at various times subsequent to the 1st of June, 1849, the Commissioner of the General Land Office and the Secretary of the Interior, being thereto duly authorized by law, have reorganized and continued the said order of reservation, and the same has never been in any manner lawfully annulled or revoked; that subsequently to making and delivery of the said certificates aforesaid to the State of Iowa, and about the year 1854, the said State, by a written contract, agreed to sell all of the said lands which had not been sold by it prior to 23d of Dec., 1853, to the Des Moine Navigation and Railroad Com-
28 pany, a corporation organized and existing under the laws of said State, and on a settlement with said company, the said State, on or about the 3d day of May, 1858, by its deed or patent, duly executed and delivered, conveyed to the said Des Moines Navigation and Rail-

road Company, in fee simple, all of the unsold lands conveyed by and included in the said certificates aforesaid, and among which was the tract aforesaid described and herein claimed by your orator; that such conveyance by the State to the said company was made for and upon a good and valuable consideration paid by said company, and in compliance with an express law of the said State; that after the execution of such conveyance to the said company by the State, the said company (the Des Moines Navigation & Railroad Company) duly conveyed to your orator the lands herein claimed, by deed dated on or about
29 the 13th day of Nov., 1858; that the said company and your orator were and are bona fide purchasers of the said lands under the State of Iowa.

Fifth. But your orator further shows that afterwards, and on or about the 2d day of March, 1861, the Congress of the United States, by a joint resolution, entitled "Joint resolution to quiet to lands in the State of Iowa," relinquished to the State of Iowa all the title which the United States "still then retained," retaines in the tracts of land along the Des Moines River and above the mouth of the Raccoon Fork thereof, in the State of Iowa, which have been certified to said State improperly by the Department of the Interior, as part of the grant by act of Congress approved August 8, 1846, and which are now held by bona fide purchasers, under the State of Iowa; and on the 12th day of July, 1862, by an act entitled "An act confirming a land claim in the State of Iowa, and for other purposes," the Congress of the United States extended the
30 grant made by the act of Aug. 8, 1846, so as to include the alternate sections (designated by odd numbers) lying within five miles of the Des Moines River, between the Raccoon Forks and the northern boundry of the State.

And your orator submits and insists that by virtue of the said several acts of Congress herein recited and referred to, and the acts of the executive officers and departments thereunder, all the title which the United States ever had to the lands herein claimed by your orator had been and were duly transferred from and out of the United States and passed to and became vested in the State of Iowa, and its grantees, including your orator; and that thereby the said lands ceased to be the property of the United States, and a part of the public domain thereof, and that neither the land officers nor any other officers of the
31 United States have had any lawful authority to deal with the same as belonging to the United States, or to sell the same, or to grant pre-emption or homestead entries upon the same, or to grant or issue patents therefor to any parties whatever, except the State of Iowa and its aforesaid grantees, and your orator claims and insists that under and by virtue of said acts of Congress aforesaid the said title has become absolutely vested in said State and its grantees, without the necessity of any further act, certificat, or patent from the land office or any other department or office of the United States.

Sixth. And your orator further shows that the said defendant claims title to the said above-described tract, under and by virtue of a patent issued to her by the United States and its executive officers on or about the ——— day of ———, A. D. ———, and after the conveyance
32 of the same as aforesaid to the said Des Moines Navigation and Railroad Company by the State of Iowa, which said patent is now in the hands of the said defendant, and your orator is unable to put forth a copy thereof, but your orator expressly alleges and avers that the said patent was corruptly and fraudulently procured, and by fraud

practiced upon the executive officers of the United States, allowing and granting, & issuing the same as aforesaid; that the said patent was issued to the said defendant upon a pre-emption certificate procured and obtained by her from the register and receiver of the United States land office at Fort Dodge, Iowa; that the affidavits and papers upon which said pre-emption certificate was allowed & granted, and issued, contained false & untrue and erroneous statements in relation to the filing of a declaratory statement and the settlement upon and the cultivation and improvement of the said tract by the said defendant, without which false and ungrounded statements the pre-emption certificate could not have been procured or obtained by the said defendant; that such affidavits were obtained by the procurement of the said defendant in connivance and colusion with the persons making the same for the purpose of defrauding your orator and receiving and obtaining the said pre-emption certificate and the patent aforesaid issued thereon.

33

Seventh. And your orator further shows and alleges that the said pre-emption certificate and the patent issued thereon, and in pursuance thereof, to the said defendant by the said officers of the United States, as aforesaid, are without any force or validity, and confer no title whatever upon the said defendant; that the said certificate and patent were so issued after the government of the United States had certified and approved the said tract to the State of Iowa, and after the United States had parted with all its title hereto, and after your orator had acquired his title thereto; that the said officers of the United States so issuing and executing such pre-emption certificate and said patent to the said defendant as aforesaid, had no authority whatever so to do; that in so doing they acted without authority and contrary to and in violation of law, for the reason that the said tract, piece, or parcel of land was not, at the time of the issuing such pre-emption certificate, nor at the time of the granting and issuing of the said patent to the said defendant as aforesaid, subject or liable to pre-emption, under the pre-emption laws of the United States, nor was it any part of the public domain; and all and singular their acts in the premises as well as the said patent and pre-emption certificate are void and confer no rights upon the said defendant and give her no title whatever to the said land. Yet, nevertheless, the said patent and pre-emption certificate, although they confer no title to the said lands upon the defendant, and vests no title thereto in her, create and constitute a cloud upon the title of your orator to the said tract which should be removed. And your orator further shows that the said acts of the defendant above complained of are contrary to equity and injure your orator, and that he has no relief in a court of equity where such matters are solely cognizable.

34

35

In consideration whereof your orator therefore prays that the said pre-emption certificate and patent for the said land above described so issue to the said defendant by the said executive officers of the United States as aforesaid, and under which the said defendant now claims the title thereto by the decree of this court be cancelled and set aside, and declared of no force or validity or effect; that in case the said certificate and patent should be held to confer any title upon the said defendant that the same be declared to be held by her simply as trustee for the benefit of your orator; that the cloud created by said certificate and patent upon your orator's title be removed; that your orator's title to the said above-described tract be confirmed and declared

36

valid and absolute, and that he may have such other and further relief in the premises as shall be agreeable to equity and good conscience.

FINCH & RIVERS,
Sol's for Complainant.

J. M. ELLWOOD, *of Counsel.*

Filed Feb'y 1, 1869.

GEO. B. CORKHILL, *Cl'r.*

37 On this day, to wit, the 1st day of February, A. D. 1869, came said defendants by her solicitor, Galusha Parsons, and filed in said clerk's office their answer in said entitled cause, which said answer is in the words and figures following, to wit:

Circuit Court of the United States, district of Iowa.

WILLIAM B. WELLES
against
HANNAH RILEY.

I. Hannah Riley, the above-named defendant, answering the complainant's bill, saving to herself all manner of benefit and the advantage of exception, says she denies each and every the alligations thereof.

II. Further answering, she says that prior to 1861 said land was public land, the property of the United States, and subject to settlement under the pre-emption laws of the United States; that she en-
38 tered upon said land under said laws in the year 1854, and that she in all respects complied with said laws and duly obtained from the government of the United States a patent for said land; and that she now holds, and for more than ten years prior to the commencement of this action had held, and had possession of said land by virtue of said patent and her rights as a pre-emptor and purchaser thereof.

GALUSHA PARSONS,
Deft's Solicitor.

Endorsed: Filed March 2, 1869.

GEO. B. CORKHILL, *Cl'r.*

39 On this day, to wit, the 15th day of April, A. D. 1869, came the said defendant, by her solicitor, Galusha Parsons, and filed in said clerk's office his withdrawal of appearance, which said withdrawal was in the words and figures following, to wit:

In the circuit court of the United States, district of Iowa.

WILLIAM B. WELLES
against
HANNAH RILEY.

SIR: Please notice that I withdraw my appearance herein upon behalf of the above-named defendant, and that at the opening of this court on the 11th day of May next I shall move for such an order allowing a withdrawal from the files of this court of the answer filed by me upon behalf of said defendant.

Dated April 15, 1869.

GALUSHA PARSONS.

D. O. FINCH, *Att'y for Pl'ff, L. O.*

Endorsed: Filed April 15, 1869.

GEORGE B. CORKHILL, *Cler.*

40 On this day, to wit, the 17th day of May, 1869, came said defendant, by her attorney, Galusha Parsons, and filed in said clerk's office the following motion, which said order was in the words and figures following, to wit:

Circuit court of the United States, district of Iowa.

WILLIAM B. WELLES
against
HANNAH RILEY.

Now comes the defendant, by her attorney, Galusha Parsons, and moves to set aside the rule or order entered herein that the plaintiff's bill be taken pro confesso, and that her answer remain of file herein, which motion will be made upon the records of this court and the affidavits hereto attached.

May 17th, 1869.

GALUSHA PARSONS,
Deff't's Att'ys.

Endorsed: Filed May 17, 1869.

GEORGE B. CORKHILL, *Clerk.*

41 On this day, to wit, the 18th day of May, A. D. 1869, came said defendant, and filed in said clerk's office her affidavit in said entitled cause, which said affidavit is in the words and figures following, to wit:

Circuit court of the United States, district of Iowa.

WILLIAM B. WELLES
against
HANNAH RILEY.

STATE OF IOWA, *County of Polk, ss:*

Hannah Riley, of Webster County, Iowa, being duly sworn, says she is the defendant above named; that she settled, with her husband, upon the land described in the bill of complaint herein in the year 1855, and has ever since lived upon the same; that her husband died in June, 1857; that defendant obtained from the government of the United
42 States a patent for said land, herewith produced, in 1863, under which she now holds said land; that said land is in good cultivation and well improved; that the value thereof, in the opinion of defendant, with the improvements thereon, is not less than fifty dollars per acre.

Defendant further says that after she was served with the subpœna in this action she consulted her friends, and was informed that it would not be necessary for her to do anything more than to send her patent to the court; that the court would dismiss the action upon the production of said patent; that she verily believe said advice to be correct and true, and, relying thereupon, omitted to employ counsel or to prepare for her defence herein.

Defendant further says that she has this day retained Galusha
43 Parsons, who resides at the village of Fort Dodge, as her counsel herein; that she has fully and fairly stated to her said counsel the facts of this case, and that she has a good and substantial defence

upon the merits herein, as she is advised by her said counsel, after such statement aforesaid, and verily believes true.

her
HANNAH + RILEY.
mark.

Sworn and subscribed to before me by Hannah Riley this 17th day of May, 1867.

GEORGE B. CORKHILL, *Clk.*

Endorsed: Filed May 18, 1849.

GEORGE B. CORKHILL, *Clk.*

And afterwards, to wit, on this the 20th day of May, 1869, in the May term thereof of said court, in the record of the proceedings thereof in said entitled cause, is the following entry, to wit:

44 May 20, 1869.

WILLIAM B. WELLES
vs.
HANNAH RILEY.

And now comes J. M. Ellwood, esqr., one of the soliciter for complainant, and moves the court for a rule or order on the clerk of the district court of Webster County, from which this cause was removed to this court to corect his transcript herein.

May 20, 1869.

WILLIAM B. WELLES
v.
HANNAH RILEY.

On motion of complainant's soliciter, the defendant's soliciter assenting, it is ordered by the court that J. A. O. Yeomans and Stephen Sibley, be, and they are hereby, designated as commissioners to take depositions herein, and that the depositions to be taken herein, the soliciters for both parties consenting, be taken upon oral interogations.

45 WILLIAM B. WELLES
vs.
HANNAH RILEY. } Rule.

Now comes J. M. Ellwood, esqr., soliciter for the complainant, and moves the court for a rule or order authorizing the clerk of the dist. court of Webster County, from which this cause was removed, to amend and correct his transcript sent to this court by supplying the proper order transfering this cause to this court, and the clerk of this court is hereby authorized and directed to allow the amendment therein contemplated to be made, and this cause stands continued generally.

46 And afterward, to wit, on the 21st day of May, A. D. 1869, came said complainants, by his solicitors, Finch & Rivers, and filed in said cerk's office their replication in said entitled cause, which said replication is in the words and figures following, to wit:

U. S. circuit court, district of Iowa.

WILLIAM B. WELLES
vs.
HANNAH RILEY.

The replication of Wm. B. Welles, complainant, to the answer of Hannah Riley, defendant.

This repliant, saveing and reserving to himself now and at all times

hereafter, all and all manner of benefit and advantage of exceptions which may be had or taken to the manifold insufficiencies of the said answer of replication thereunto, says he will ever maintain and prove his bill of complaint to be true, certain, and sufficient in the law to be answered unto; and that the said answer of the said defendant is uncertain, untrue, and insufficient to be replied unto by this repliant,
47 without this, that any other matter or thing whatsoever in the said answer contained, material or effechial in the law, to be replied unto, and not herein and hereby well and sufficiently replied unto, confessed and avoided or denied, is true; all which matters and things this repliant is and will be ready to aver, maintain, and prove, as this honorable court shall direct, and humbly prays as in and by his said bill he has already prayed.

WM. B. WELLES, *Compl't*,
By FINCH & RIVERS,
His Sol'rs.

Endorsed: Filed May 21, 1869.

GEORGE B. CORKHILL, *Cl'k.*

And afterward, to wit, on the 19th day of June, 1869, there was filed in said clerk's office an amended transcript, in the words and figures following, to wit:

48 District court, Webster Co., Iowa.—October term, 1868.

WILLIAM B. WELLES
vs.
HANNAH RILEY.

OCT. 16TH, 1868.

The affidavit, bond, and petition of the above-named plaintiff, for the removal of this action to the United States circuit court haveing been this presented to this court, and also the stipulation of the parties assenting to such transfer and removal, and the court haveing duly approved the bond and ordered the cause to be transfered and removed to the United States circuit court, it is ordered that this action be transfered to the United States circuit court for the district of Iowa, and that the clerk of this court prepare and forward to the clerk of the said United States circuit court the transcript in this action, as by law required.

STATE OF IOWA, *Webster County, ss:*

49 I, W. Lumkin, clerk of the district court of the State of Iowa in and for said county, do hereby certify that the foregoing is a true and perfect copy of all the pleadings, process, depositions, testimony, and all other proceedings, and the record entries had on the above entitled cause fully as the same remains on file and of record in my office.

In testimony whereof, I have hereunto fixed my hand and official seal May 28th, 1869.

[SEAL.] W. LUMPKINS, *Clerk D. C.*

Endorsed: Filed June 19, 1869.

GEORGE B. CORKHILL, *Cl'k.*

And afterward, on this 22d day of October, in the October term, A. D.

1869, of said court, in the record of the proceedings thereof in said entitled cause is the following entry, to wit:

50 Oct. 22d, 1869.

WILLIAM WELLES } *vs.* HANNAH RILEY. } Rule on commissioner.

This day, this cause coming on for hearing, it is ordered by the court that a rule issue to the commissioner herein to show cause why he has not returned to this court the depositions herein.

51 And afterward, to wit, on the 27th day of October, A. D. 1869, came the plaintiff, by Finch & Rivers, and James M. Ellwood, his solicitors, and filed in said clerk's office the report of S. Sibley, of evidence taken by him in this cause as commissioner of this court, which report is in the words and figures following, to wit:

52 United States circuit court, district of Iowa.

WILLIAM B. WELLES, COMPLAINANT, } *vs.* HANNAH RILEY, DEFENDANT. }

MADAM: Take notice, that the following witnesses, to wit, Woolsey Welles, of the village of Fort Dodge, Iowa, lawyer, and A. K. Welles, of Montana, Iowa, banker, will be examined on behalf of the above-named complainant, before S. Sibley, esq., an examiner appointed by the court in this cause, at his office in the city of Des Moines, Iowa; such examination to commence on the 31st day of August, 1869, at 10 o'clock in the forenoon of that day, and to proceed from day to day thereafter as shall suit the convenience of such examiner.

Dated Aug. 10, 1869. Yours, &c.,

FINCH & RIVERS, & J. M. ELLWOOD,
Sol's for Compl't.

Due service admitted. Aug. 27, 1869.

GALUSHA PARSONS, *Def't's Sol.*

To HANNAH RILEY, *Def't.*

53 In the U. S. cir. c't, dist. of Iowa.

WILLIAM B. WELLES } *vs.* HANNAH RILEY. }

Depositions taken before the undersigned, S. Sibley, com'r, appointed by said court to take certain depositions, on the 31st day of August, 1869.

And, therefore, as noticed, the pl'ff's att'ys, J. M. Ellwood, esq., and Finch & Rivers, appeared, and the def'ts not appearing, nor any witness, the matter was continued till to-morrow at 9 o'clock a. m.

On the 1st day of Sept., 1869, the undersigned proceeded to take the depositions above alluded to; J. W. Ellwood, esq., and Finch & Rivers appeared for pl'ff, and G. Parsons, esq., appeared for def't, when the following dep's were taken, to wit:

54 A. K. WELLES being duly sworn, testified as follows:

Int. 1st. What is your name, age, residence, and occupation?

Ans. My name is A. K. Welles; age, 32 years; residence at Montana, Boone Co., Iowa, and occupation a banker.

Int. 2d. Are you acquainted with the parties to this suit, or either of them; and if so, with whom?

Ans. I am acquainted with them; Wm. B. Welles, pl'ff, and Hannah Riley, def't.

Int. 3d. State if you know the citizenship of the parties.

Ans. Wm. B. Welles resides in New York, and Hannah Riley in Iowa.

Int. 4th. Do you know the location of the northwest quarter of sec. 33, in township 89 north, of range 28 west, of the 5th P. M., Iowa?

55 Ans. I do.

Int. 5. In 1859, who was on the tract above described?

Ans. Hannah Riley and her family; one of whom was William Riley, and another was Peter Riley, and there was another son.

Int. 6. State what was the age of Wm. Riley in 1859.

Ans. I should judge 21 or 22 years.

Int. 7. State whether or not at any time you served a written notice on the def't, Hannah Riley, while she was on this tract; and if you did, state when and how service was made, and where made.

Ans. I did on the 23d of March, 1859; I handed her a written notice, stating its contents; it was on these premises above named.

56 Int. 8. Have you now a copy of the notice served on her on said 23d of March, 1859? And, if so, please produce it to the com'r as an exhibit?

Ans. I have, and now produce such copy as Exhibit "A," and make the same part of my ans. to this question, the same to be attached to the deposition.

Int. 9. Who was the agent of pl'ff in Wester County, Iowa, at that time?

(Objected to by def't's counsel.)

Ans. Woolsey Welles was.

Int. 10. At whose direction did you serve the notice.

Ans. At Woolsey Welles'.

Int. 11. State whether the tract, the N. W. ¼ of sec. 33, town. 89, range 28, above referred to, lies within five miles of the Des Moines River?

Ans. It does.

57 Int. 12. In what county?

Ans. In Webster County.

Int. 13. What is its present value?

Ans. Eight thousand dollars.

Cross-examination by G. Parsons, esq., counsel for the def't:

X-int. 1. When did you come to the State of Iowa?

Ans. In December, 1858.

X-int. 2. How do you know that Woolsey Welles was the agent of pl'ff at the time spoken of?

Ans. From having seen written authority to act as such from W. B. Welles.

X-int. 3. Do you mean a power of attorney?

Ans. I don't recollect whether it was a power of attorney or not.

58 X-int. 4. Do you state that he was his agent upon the authority of this written instrument?

Ans. I do.

(The counsel for def't now calls upon the pl'ff or his att'ys to produce the written authority above referred to or that the above parol evidence of such authority be stricken out.)

X-int. 5. Was Mrs. Riley living upon the premises in question when you first saw them?

Ans. She was.

X-int. 6. What improvements had she upon the premises at that time?

Ans. A log cabin; about 40 acres broke and fenced.

X-int. 7. What improvements has she at this time?

(Obj. to by pl'ff's counsel as immaterial.)

59 Ans. She has a frame house, about 60 acres broken and fenced.

X-int. 8. State whether you consider her's a well-improved farm for that region of country.

(Obj. to by pl'ff's counsel as immaterial & as assuming that the farm belongs to def't.)

Ans. I do.

X-int. 9. State by what means you know the boundaries of this tract.

Ans. From having run the lines of the whole section.

X-int. 10. Are you a surveyor?

Ans. I have been.

X-int. 11. Have you followed that business in Iowa?

Ans. I have not.

60 X-int. 12. Have you followed it anywhere since you first came to Iowa?

Ans. I have not.

X-int. 13. At what age did you come to Iowa?

Ans. 22 years.

X-int. 14. Had you prior to that time been acquainted with the government methods of survey?

Ans. I had.

X-int. 15. Where?

Ans. In Ohio; and from knowledge obtained from books.

X-int. 16. State your relationship to pl'ff?

Ans. I am his nephew.

X-int. 17. State your relationship to Woolsey Welles?

Ans. A son.

61 X-int. 18. Have you any interest in this suit?

Ans. I have none.

X-int. 19. Do you know whether your father has?

(Obj. to by pl'ff' counsel as immaterial.)

Ans. I do.

X-int. 20. Has he?

(Obj. to by pl'ff' counsel as immaterial.)

Ans. He has not, to my knowledge.

Re-examined by pl'ff's counsel.

Int. 1. Do you know who made the improvements which you say were on this tract March 23, 1859?

Ans. I do not.

A. K. WELLES.

Subscribed and sworn to, A. K. Welles, before me, this 1st day of Sept., 1869.

S. SIBLEY, *U. S. Com'r.*

62 FORT DODGE, WEBSTER COUNTY, IOWA,
March 22, 1859.

Mr. WILLIAM RILEY & Mrs. HANNAH RILEY:

You are hereby notified that William B. Welles, of the city of New York, is the owner in fee simple of the northwest quarter of section

number thirty-three (33), in township number eighty-nine (89) north, of range number twenty-eight (28) west, in the Fort Dodge land district, in Webster County, in the State of Iowa, of which you are in the possession and occupying without any right in law or equity. The owner neither wishes to sell or personally occupy the said land, and if you wish to remain in possession of the same for one year, he is willing to lease the same to you for that time by written lease at a reasonable rent for the same, which you can obtain from the subscriber, who is the
63 authorized agent of the owner. If you do not take a written lease of the same, the owner, William B. Welles, will hold you responsible for a reasonable rent, to be collected by suit at law hereafter, if you continue to occupy the land.

Yours respectfully,

WOOLSEY WELLES,
Agent for Wm. B. Welles.

(Indorsed:) Pl'ff's Exhibit "A."

S. SILBEY, *Com'r.*

I hereby certify that on the 23 day of March, 1859, I delivered to old Mrs. Riley a letter, of which the within is a true copy.

A. K. WELLES.

And that on the 20 day of April, I delivered to Mr. ——— Riley, a copy of the within letter, (except that is described the undivided quarter of section 33 in same township.)

64 The pl'ff's counsel, then, now offer as an exhibit, what purports to be a deed from the State of Iowa to the De Moine Navigation & Railroad Company, and asks the com'r to annex a copy as an exhibit and certify the same to be a copy thereof, the deed covering the premises in controversy.

The de'ft's counsel objects thereto on the grounds: 1st. No authority has been shown for the execution of the instrument by Ralph P. Lowe; 2nd. There is no evidence of its execution in fact; 3d. It does not upon its face purport to be the deed of the State of Iowa, or to have been executed by any officer of the State, having authority to convey the premises in question.

The def't's counsel also gives notice, that he will object to the use of copies on the trial, and insist upon the originals as exhibits.

65 The deed above named is copied, a such copy is annexed hereto as Exhibit B, and so certified by the com'r.

Pl'ff's counsel next offer the deed of the De Moine Navigation and Railroad Company, to the pl'ff Wm. B. Welles, covering the tract in dispute, and ask the com'r to annex and certify a true copy thereof.

The def'ts counsel objects to the paper offered: 1st. There is no proof of its execution; 2d. There is no proof of the official character of the persons whose names purport to be signed as officers of the company to such deed; 3d. There is no proof of the existence of any such corporation; 4th. Wm. B. Welles, as treasurer of said corporation, has no authority to convey the premises to himself.

A copy of said deed is hereto attached as Exhibit "C" and certified by the undersigned com'r.

66 1. Pl'ff's counsel next offer in evidence a letter written by Richard M. Long, Com'r of the General Land Office to Chas. Arkery, sec'y of the board of public works, Iowa City, Iowa, of date of Feb. 23d, 1868.

2. Also, a letter of R. J. Walker, Sec'y of the Treasury, to A. C. Dodge, and other representatives in Congress for the State of Iowa, under date of March 2d, 1849.

3. Also, a letter of R. J. Walker, Sec'y of the Treasury of the United States, to R. M. Young, Commissioner of the General Land Office, under date of March 2d, 1849.

4. Also, letter of Richard M. Young, Com'r, to the register and receiver, at Iowa City, Iowa, under date of June 1st, 1849.

5. Also, the letter of Jesse Bowen, register, and Eustin Morris, receiver to the Com'r of the General Land Office, at Washington, under date of June 16, 1849.

6. Also, a letter of Jesse Bowen, register at Iowa City, Iowa,
67 to the Com'r of the General Land Office, at Washington, under date of June 21st, 1849.

7. Also, letter of A. H. H. Stewart, Sec'y of the Interior, to the Com'r of the Land Office, under date of October 29th, 1851.

Also, letter of J. Butterfield, Com'r of the General Land Office, to the register at Dubuque, Iowa, under date of March 16th, 1852.

8. Also, the letter of R. McClelland, Sec'y of the Interior, to Reverdy Johnson, Baltimore, under date of Nov. 10, 1856.

9. Also, letter of J. Thompson, Sec'y of Interior, to Chas. Mason, agent for the State of Iowa, under date of May 5th, 1858.

10. Also, letter of J. Thompson, Sec'y of Interior, to the Com'r of the General Land Office, under date of March 26th, 1859.

11. Also, a notice, No. 661, headed "Notice respecting certain lands in the State of Iowa," issued by Joseph L. Wilson, Com'r of the General Office, under date of May 18th, 1860.

12. Also, letter from Joseph L. Wilson, Com'r of the General Office, to J. Thompson, Sec'y of Interior, under date August 13th, 1860, enclosing a proclamation of public lands in the districts of Sioux
68 City and Fort Dodge, embracing 1,270,623 acres, on which is an endorsement submitting the same to the President by the Sec'y of Interior, under date of Aug. 14, 1860.

13. Also, letter from J. Butterfield, Com'r of the General Land Office, to the register at Iowa City, Iowa, under date of April 20, 1852.

All of which are certified and exemplified under the hand and seal of Joseph L. Wilson, the Com'r of the General Land Office.

Def't's counsel objects to each of said papers on the grounds—

1st. There is no law making certified copies of papers of this character evidence.

2nd. Said papers are not official acts; the mere correspondence of public officers is not competent evidence.

3d. This correspondence does not affect the [the] lands in question.

4th. It does not appear which of these papers were on file with
69 the Com'r of the General Land Office. And copies of said letters and papers last above offered are hereto attached as Exhibit "D," and certified to by the Com'r.

1. Pl'ffs next offer in evidence a letter addressed to J. Butterfield, Com'r of the General Land Office, by Wm. Patterson, Jesse Williams, and Geo. Gillaspy, pres. & sec'y & tres. of the board of public works of the State of Iowa, under date of Feb'y 15, 1851, with the indorsement thereon.

2. Also a telegram from Wm. Patterson, pres., and Jesse Williams, sec'y of the board of public works, to Alex. Stuart, Sec'y of Interior, under date of 22d Feb'y, 1857. All of which are certified and exempli-

fied as copies of the originals on files by Joseph L. Wilson, Com'r of the General Land Office.

Def't's counsel objects to these papers for the same reasons as
70 to the series of letters last above introduced.

And copies of said documents are hereto attached as Exhibit "E," and made part hereof, and certified by the undersigned com'r.

Pl'ff next offered a certified list of lands lying above the Raccoon Fork on the Des Moines River, certified and approved to the State under the grant of August 8th, 1840; certified to by the register of the Iowa State land office June 26th, 1868.

Def't, by counsel, objects thereto, because—

1st. There is no law making copies of such papers, certified to by the register of the State land office or his deputy, evidence.

2d. By law the lists filed with the register of the State land office are simply copies, the original lists remaining in the land department of the government, and the papers offered in evidence are but copies of copies.

71 3d. The papers offered embrace explanations and headings not contained in the lists furnished by the department.

Copies of the papers or lists so offered are hereto attached and duly certified by the undersigned com'r and marked Exhibit "F."

Pl'ff's counsel then offered the letter of John Wilson, Com'r of the General Land Office, to the register at Ft. Des Moines, dated Jan'y 7th, 1854, and also the letter of John Wilson, Com'r of the General Land Office, to Geo. Gillaspy, register of the State land office, under date of Jan'y 6th, 1854, with the certifi. of the Com'r of the General Land Office annexed that they are copies of the originals on file in his office.

Def't's counsel objects, because these certified copies are not evidence.

2d. There is no proof that these letters were ever sent to or
72 received by, and to whom they are written and addressed.

And said letters and documents are copied and such copies certified to by the undersigned com'r and hereto attached as Exhibit "G."

Pl'ff then offered the letter of Jacob Thompson, Sec'y of the Interior, to Geo. Kirkwood, of Iowa, bearing date Nov. 3d, 1860. And also letter of Reverdy Johnson to McClelland, Sec'y of Interior, under date of Nov. 10th, 1856, both of which are certified and exemplified as copies of the originals on file in his office, by the Com'r of the General Land Office.

Def't's counsel objects to these papers, for the same reasons as stated to the papers offered last preceeding these. And copies of said papers are hereto attached as Exhibit "H," and certified to by the undersigned com'r.

73 Pl'ff's counsel then offered an exhibit containing a letter of Reverdy Johnson to McClelland, Sec'y of Interior, dated Nov. 10th, 1856, and the answer of the Sec'y of Interior to the same, under the same date, both of which are duly certified by Usher, Sec'y of Interior, under the seal of his office.

Def't's counsel objects to these papers for the following reasons:

1st. There is no law making the certificate of the Secretary of the Interior, that a letter received by that department is genuine, evidence of such fact, or making a copy of such letter evidence in the courts.

2nd. There is no evidence that the letter purporting to have been written by McClelland, Sec'y, was in fact sent to or received by the parties addressed.

3d. Neither of said letters is competent evidence in this case.

Copies of such papers are hereto attached as Exhibit as part of D & H, and duly certified to by the undersigned com'r.

74 Pl'ff counsel offered in evidence several certain documents certified to by the Com'r of the General Land Office, on the 27th day of Dec'r, 1865.

Def'ts counsel objected to each paper for the same reason as to the last set of papers, offered as Exhibit D & H, and for further reason that they do not effect the lands in question.

Said papers are hereto attached as Exhibit "I," and certified to by the undersigned com'r.

Pl'ff's counsel then offered a letter from McClelland, Sec'y of Interior, to Jos. S. Wilson, Acting Com'r of the General Office, July 16, 1856, certified and exemplified by J. S. Wilson.

Obj. to by def't's counsel for the same reason as the papers last above offered.

Said papers are attached as Exhibit "K," and duly certified to

75 by the undersigned com'r.

Pl'ff then offered a letter from McClelland, Sec'y of Interior, to Hendricks, Com'r of the General Office, of date Jan. 9, 1856, certified and exemplified by the Com'r of the General Land Office, under his hand and seal.

Def't's counsel objects thereto for the same reasons as to the last-offered paper.

Said papers are attached by copies marked Exhibit "L," and certified to by the undersigned com'r.

Pl'ffs then offered letter of Walker, Sec'y of Interior, to Com'r of General Land Office, dated March 2d, 1849. Also, the certificate of the governor of Iowa, Ralph P. Lowe, to the President, James Buchanan, dated April 28th, 1858. Also, a letter from J. Butterfield, Com'r

76 of the General Land Office, dated Sept. 19, 1850, to the President. The same are duly certified by the undersigned, as com'r, as Exhibit "M" hereto.

At this stage of the taking of evidence herein, it is agreed by counsel for the respective parties that the following documents may be read in evidence without any certificates thereto, and without any objection thereto because of such absence of certificates, reserving the objections of def't's counsel thereto for irrelevancy or incompetency, and, subject to such objection, to be read in evidence the same as though duly certified to by the proper officers.

1. Pl'ffs then offered copy of the letter of Jessie Williams, and Josiah H. Bunny, to Jas. Clark, gov. of Iowa, date Oct. 17, 1846.

2. Also, copy of a letter of Chas. Arkery to Com'r of General

77 Land Office, and his protest, as sec'y of the board of public works, dated Sept. 18, 1848.

3. Also, copy of letter of the representatives of Iowa, to the Com'r of the General Land Office, under date of 8th of January, 1849.

4. Also, copy of letter of J. Butterfield, Com'r of the General Land Office, to Jesse Williams, of date of Dec. 19, 1849.

5. Also, copy of letter of T. Ewing, Sec'y of Interior, to Com'r of General Land Office, under date of April 6, 1850.

6. Also, copy of Stuart, Sec'y of Interior, to the Com'r of General Land Office, under date of July 26, 1851.

7. Also, letter of Butterfield to Sec. Gillaspy, under date of March 16th, 1852.

8. Also, letter of Butterfield to register and receiver at Iowa City, under date of April 20, 1852, (see Exhibit "D.")

9. Also, letter of Butterfield to Van Antwerp, under date of Nov. 21, 1851.

78 Also, copy of letter of Hendricks, Com'r, in answer to the petition of citizens of Fort Dodge, to Geo. W. Jones, dated 12th of February, 1859.

11. Also, copy of letter of Edwards, Com'r, to Sam'l J. Kirkwood, gov. of Iowa, under date of June 26, 1862, asking for lists of lands under joint resolution of 1861, and a copy of a list furnished by Kirkwood to Edwards, in response to the letter of June 26, 1862.

12. Also, copy of the affidavit of J. A, Harvey, sworn to July 10th, 1868, in regard to the adjustment of the grants assented to by him, as agent for the State.

13. Also, copy of letter of Joseph S. Wilson, Com'r of General Land Office, to W. S. Stager, under date of June, 1866.

14. Also, letter of Wilson, Com'r of Gen. Land Office, to the Sec'y of Interior, dated July 7th, 1860.

15. Also, copy of letter of Jacob Thompson, Sec'y of Interior,
79 to the Com'r of the General Land Office, dated Sept. 6th, 1860.

16. Also, copy of letter from Wilson, Com'r, to Geo. Gillaspy, register, under date of Dec. 2nd, 1853.

17. Also letter from Wilson, Com'r, to Geo. Gillaspy, register, enclosing lists, and dated Jan'y 6, 1854.

All which papers are hereto attached, marked Exhibit "N," by me.

Pl'ff counsel also offered in evidence a resolution of the legislature of Iowa, of Feb. 9, 1847, accepting the grant of lands to the State, made Aug. 8, 1846, which is hereto attached as pl'ff's Exhibit "N½."

Also, joint resolution of the Iowa legislature, passed March 22d, 1858, (see Exhibit "N½.")

18. Also sec. 2210, revision of 1860, and ss. 1202 of the code of 1851, (see Exhibit "N.")

It is here further agreed by counsel for respective parties that the following documents may be read in evidence without any cer-
80 tificates thereto, and without any objection thereto because of such absence of certificates, reserving the objections of def't's counsel thereto for irrelevancy or incompetency, and subject to such objection to be read in evidence the same as though duly certified to by the proper officers.

A letter from Chas. L. Krailey, Acting Commissioner of the Land Office, to George Gillaspy, under date of December 2nd, 1853.

Letter from John Wilson, Com'r of the General Land Office, to Thos. H. Benton, superintendent of public instruction, under date of Jan'y 6th, 1854.

A patent or deed from the State of Iowa to the De Moine Navigation and Railroad Company, under date of the 18th of May, A. D. 1858, with the note that the same was filed for record June 18th, 1858.

A letter from Jacob Thompson, Secretary of the Interior, to the
81 Hon. George W. Jones, under date of Nov. 3d, 1860.

A letter from J. W. Edmonds, Com'r General Land Office, to the governor of Iowa, under date of September 25th, 1862.

Also letter of Jas. H. Piper, Acting Com'r of Land Office, to register and receiver at Iowa City, under date of Oct. 14, 1846.

All of which last-mentioned documents are attached together and hereto, and respectively marked pl'ff's Exhibit "O," and herewith returned.

Pl'ff also introduced a copy of a patent to the def't, Hannah Riley, for the land in controversy, under date of October 15th, 1863, and the affidavit and papers on which the same was issued duly certified under

the hand and seal of the Com'r of the General Land Office, under
82 date of Aug. 6th, 1869, which is annexed hereto as Exhibit "P," and herewith returned.

Pl'ff then introduced 4 letters from O. H. Browning, Sec'y, to the Com'r of the General Office, two dated Dec. 31, 1868, and two dated Feb. 27, 1869, hereto attached as pl'ff's Exhibit "T."

83 JOHN BROWNE, a witness called by pl'ff, being sworn, testified as follows to the following questions put to him:

Int. 1. What is your name, age, residence, and occupation?

Ans. John Browne; of competent age; residence, Des Moines, Iowa; and occupation, land agent.

Int. 2. State whether in 1858, and since, you have been an agent for the De Moine Navigation and R. R. Company.

(Obj. to by def't's counsel, 1st, because there is no proof of the existence of any such company; 2nd, whether he is an agent or not, is a question of law to be determined upon the facts which should be fully stated and the method of his appointment.)

Ans. I have been the land agent of the De Moine Navigation
84 and Railroad Company since Dec. 1857, or January, 1858; I do not remember the exact date of the resolution.

Int. 3. Please look at the exhibits marked "D," in this evidence, and the notice marked No. 661, signed Jos. S. Wilson, Com'r, and state whether the notice of which that is a copy was posted in the office of the register and receiver of the U. S. land office, at Des Moines, Iowa; and if so, when the same was so posted.

(Obj. by def't's counsel, 1st, the notice did not relate to and cannot affect the lands in question; 2d, whether the notice was posted in that office or not, is immaterial.)

Ans. The notice referred to was posted in the office of the register and receiver, at Des Moines, Iowa, in May, 1860, immediately after its date, and still remains there.

85 Int. 4. State if you know who was acting president of the De Moine Navigation and Railroad Company during the year 1858.

(Obj. to by def't's counsel, 1st, because the existence of the corporation itself has not been shown; 2d, the official character of such an officer cannot be shown simply by his acts; 3d, when conveyances by the assumed officer of a private corporation are sought to be proven, it must be shown they are in fact such officers.

Ans. Roswell S. Burrows was the president during such time.

Int. 5. Please state whether or not you are acquainted with the handwriting of Roswell S. Burrows.

Ans. I am.

Int. 6. Look at Exhibit "C," put in evidence here to-day, and
86 state whether the signature to the instrument so shown is or is not in the handwriting of said Roswell S. Burrows.

Ans. It is in the handwriting of Roswell S. Burrows.

Int. 7. State who was treasurer of the De Moine Navigation and Railroad Company in 1858, if you know.

Ans. Wm. B. Welles, pl'ff in this case.

Int. 8. Are you acquainted with his handwriting?

Ans. I am.

Int. 10. State whether the signature of said Welles to said Exhibit "C," the deed of De Moine Navigation and Railroad Company to said pl'ff, is in the proper handwriting of Wm. B. Welles.

Ans. It is.

87 Cross-examination by def't's att'y:

X-int. 1. Did the association of men that now call the Des Moines Navigation and Railroad Company have an office at their place of doing business?

Ans. Yes.

X-int. 2. Did they keep books in which they kept their proceedings and resolutions?

Ans. Certainly.

X-int. 3. Do you claim to derive your authority to act as their agent from anything entered in those books?

Ans. Yes.

X-int. 4. Do you know where those books are now?

Ans. I suppose they are in possession of the treasurer and sec-
88 retary of the company, at his office, in the city of New York.

X-int. 5. Do you know whether this company still continue to do business?

Ans. They do—or it does.

X-int. 6. What is their present business?

Ans. The management and sale of their lands in Iowa, and liquidating their stock and bonds and other indebtedness.

X-int. 7. How long since they ceased working on the Des Moines River improvement?

Ans. Since the spring of 1858.

X-int. 8. Will you state as many as you know of those whos assume to be members of this company and their places of residence?

(Obj. to by pl'ff's counsel as immaterial.)

89 Ans. R. S. Burrows, of New York; Peter Carroll, of Canada; Mr. Dibble, of Detroit; Mr. Kibbee, Mr. Speed, of Detroit; Mr. Tregent, of Detroit; Witteman, of Detroit; Sanger, of Detroit; Stuart, of Detroit; Plumb, of Albany; Kenrich, Albany; Pumpelly, of Albany; Washington Hunt, of Lockport; Geo. W. Rogers, of Lockport; Van Valkenburg, of Lockport; Ten Eyck, of Cazenovia; E. C. Litchfield, of Cazenovia, N. Y.; Wendell, of same place; Wm. M. Burr, same place; Martindale, of Rochester; Anderson, of same place; Davenport, of Bath; Tracy, of Buffalo; Taft, of same place; McAlpine, of New York; E. B. Litchfield, and Calvin Burr, and Wm. B. Welles, and C. C. Clark, and Oliver Hunt, all of the same place; John Strikes, and Armstrong, and Huntington, and Boardman, & Walsh, of Rome, N. Y.; Andrew Dexter, Geo. F. Parsons, W. C. Johnson, Geo. R. Thomas, of Utica. These are all I recall just now. There are altogether 300 to 400.

90 X-int. 9. State whether any members of this company reside in the State of Iowa.

Ans. Josiah H. Bonney and Jo. Smith, of Keosauqua; Mrs. Rice, at Pittsburg; myself. There are others whose names I do not now recollect.

X-int. 10. Have you in your possession or control a copy of what you call the articles of incorporation of this company.

Ans. I have a certified copy of such articles.

X int. 11. Will you produce it, to be read here in evidence?

Ans. I have a certified copy made from the original on file with the secretary of state, and will produce it. I now produce the same.

(See Exhibit "Q.")

91 X-int. 12. Do you know of any other articles of incorporation of this company than those shown by the paper, a copy of which you now produce?

Ans. I do not.

Re-examination:

The pl'ff offers now certified copies of the articles of incorporation produced by the witness, John Browne, at request of def't and stated in his answer to x-int. 11, above, which is hereto atttached as Exhibit "Q."

Pl'ff now also offers in evidence the acceptance by the Des Moines Navigation and Railroad Company of the proposition for settlement contained in the joint resolution of the Iowa general assembly of March 22d, 1858, certified to by the se'y of state, hereto attached as Exhibit "R."

92 Pl'ff now offers in evidence a certified copy of a contract between the State of Iowa and the De Moine Navigation and Railroad Company, bearing date June 9, 1854.

Def't's counsel objects thereto, because there is no law making a copy of such a paper evidence.

The said instrument is hereto attached as Exhibit "S" [hereto.]

Re-ex. 1. You state in answer to the 4th interrogatory put to you by def't that you suppose the books in which the company kept their proceedings and resolutions, were in the possession of the sec'y & pres. of said company at their office in N. Y.; now do you not know that the books are lost or mislaid, and that the company, after due search, have been unable to find them?

93 Ans. The first minute-book that was kept by the company was lost or taken from the office, in the year 1861 or 1862, as I am informed by the treasurer; and during the summer of 1868, when I was in New York, I made an effort to find it and did not succeed. At the request of the president and treasurer of the company I made this search. It was supposed to be among the private papers of General Clark, but after a search by myself and his son, it was not found; this book was one of the books of the company, and in which the company kept its record of proceedings or resolutions up to the time of its loss; since then they have another in which its proceedings since are kept.

JOHN BROWNE.

Subscribed and sworn to by John Browne before me this 1st day of Sept. 1869.

S. SIBLEY, *U. S. Com'r.*

94 The defendant's counsel then offered in evidence an act of the legislature of the State of Iowa, approved March 30th, 1866, appointing Josiah A. Harvey a commissioner to adjust certain land claims with the general government.

Pl'ff's counsel objects to the same, 1st, as immaterial, as against the pl'ff in this case it is incompetent for any purpose, it having been passed long after his title to the tract in dispute became absolute, and the act of the legislature, or an agent appointed by the legislature under such act, could in no way impair the rights of the pl'ff vested in him by deeds from the State to the De Moine Navigation and Railroad Company.

Said act is attached as defendant's Exhibit "No. 1."

95 Def't also offered in evidence, 1st, the report of J. A. Harvey, com'r to the census board of the State of Iowa, dated May 21st, 1866; 2d, the approval of the census board of the settlement; 3d, the settlement of the State with the Des Moines Valley Railroad Company, under date of June 20, 1866; 4th, a list of lands certified by the Sec'y of Interior in pursuance of such settlement.

Pl'ff's counsel objects to the above as immaterial. 2nd, that neither Harvey as com'r or agent of the State, nor the census board, nor the State of Iowa, would by any act take away pl'ff's title to his land. That at the time of the alleged adjustment, these lands had been certified and approved to the State of Iowa, under the grant of August 8th, 1846, and the lists and approval of the same were in full force, and neither
Harvey, nor the census board, nor the State, could exercise judicial
96 powers and determine these lists to be invalid; that at the time of such alleged adjustment, the State of Iowa had parted with its title to all those portions of the land specified in the adjustment, which had been certified to the State under the grant of August 8th, 1846, and had given deeds of the same to the purchasers; these deeds were in force at the date of this pretended adjustment, and until they were judicially set aside they were conclusive, any act of Harvey, the census board, or the State of Iowa to the contrary notwithstanding.

Said papers are hereto attached as Exhibit "No. 2."

Def't next offers in evidence subdivision 5, of section 1, of chap. 57, of an act of the legislature of Iowa, approved March 31st, 1868.

Said act is referred to as evidence, as though herein set out.
97 And thereto pl'ff's counsel objects for the same reasons noted to the papers or exhibits last preceeding this, and also as immaterial.

When these documents were offered, pl'ff's counsel objected thereto for the reasons above given, and for the further reason that the copies of the originals not being certified by the officer having the custody of the documents.

SEPT. 1ST, 1869.

Here, by consent of parties, this examination is continued till to-morrow, Sept. 2d, 1869.

S. SIBLEY, *Com'r.*

SEPT. 2D, 1869.

This examination in pursuance to agreement is now resumed.

S. SIBLEY, *Com'r.*

Def't now offers in evidence, by his counsel, page 43 of a book
98 called "Lists of lands certified by the United States to the State of Iowa," under the settlement of 1866, certified June 30th, 1866, $96,899\frac{40}{100}$ acres. 2nd, page 59 of the same book, a second list embracing $200,704\frac{28}{100}$ acres. 3d, a third list on page 53 of same book, list certified April 25th, 1867, embracing $1,315\frac{71}{100}$ acres. Said book is kept in the office of the register of the State land office, an abstract of which lists it is agreed is embraced in def't's Exhibit No. 2, hereinbefore set out, and said full lists need not herein be set out in full.

Def't's counsel now reads & offers in evidence a joint resolution of the State of Iowa, dated April 7th, 1862, contained on page 250 of the session laws of 1862.

This is objected to by pl'ff's counsel, that the resolution is not
99 properly proved; their passage is not shown by any competent proof; that the resolution itself is immaterial and does not tend to prove or disprove any issue in the case; that it is incompetent and impertinent; that even if the passage was proved properly, it would not be competent or admissible, for the reason that any action of the general assembly, after the title of the tract in dispute had passed from the State to the grantor of plaintiff, could in no way operate to direct or

impair the plaintiff's title, or set aside the conveyance from the State; and that such conveyance is conclusive as against the State.

Here said session laws of the State of Iowa, for 1862, is now produced by defendant's counsel, and said joint resolution, last above referred to, read.

100 To the reading of which pl'ff's counsel objected, for the reason that the reading thereof does not make it an exhibit or put it in evidence in the case.

A copy of said resolution is hereto attached as def't's Exhibit No. 3.

101 Def't's counsel now offers in evidence (page 623 of the book last referred to) a list of lands, entitled "List number 33," certified April 7th, 1863, and containing 56,473 $\frac{32}{100}$ acres.

Also, page "679," "List number 34," dated April 7th, 1863, and containing 21,061 $\frac{91}{100}$ acres.

Also, page "689" of same book, "List No. 35," dated April 7th, 1863, containing 1,382 $\frac{42}{100}$ acres.

It is agreed by the parties that the paper hereto attached as def't's Exhibit No. 4 embraces a correct abstract of the lists above referred to, and shall be taken and treated for the purposes of this cause as and for such full and complete lists.

Def't then offered in evidence a letter from Thos. H. Hendricks, Com'r of the General Land Office, to the land officers at Fort Dodge
102 and at Fort Des Moines, of which there is attached a copy hereto as Exhibit No. 5.

The def't's counsel here offers to show, by the proper evidence, that on or prior to 16th of June, 1849, there had been certified and approved to the State of Iowa by the United States, under the act of August 8th, 1846, 322,392 $\frac{18}{100}$ acres, lying below the Raccoon Forks.

It is here admitted by parties that the fact is that on or before the 9th day of June, 1854, there was certified to the State of Iowa, as passing to it under the grant of August 8th, 1846, lying below the Raccoon Fork, the quantity or amount of 322,393 $\frac{18}{100}$ acres, but of this amount only about 53,000 acres were ever certified or conveyed by the State to the De Moine Navigation and Railroad Company, the balance hav-
103 ing been sold and conveyed by the board of public works of the State of Iowa to purchasers from the State.

This admission is made without any prejudice, and without any waiver of the right of the parties to object or except to the competency of the facts contained in the above admission as evidence in this cause.

This examination is now adjourned, by consent of parties hereto, till the 22d day of September, 1869, at 10 o'clock a. m. of said day.

S. SIBLEY, *U. S. Com'r.*

SEPTEMBER 22D, 1869.

By the consent of parties the further taking of testimony is adjourned till the 27th day of October, 1869, at 9 o'clock a. m.

104 OCT. 27TH, 1869.

The parties met—Ellwood and Hawley for pl'ff, and G. A. Parsons for def't—when the taking of testimony proceeded as follows, to wit:

The def't then introduced in evidence a letter from Jos. S. Wilson, Com'r of the General Land Office, to Edwin C. Litchfield, dated June 29, 1867, a copy of which is hereto attached as def't's Exhibit No. 6.

Def't then offered in evidence a letter from Caleb B. Smith, Sec'y, to the Com'r of the General Land Office, dated April 10, 1863, whereof a copy is hereto attached as def't's Exhibit No. 7, and herewith returned.

Def't then introduced a letter from Jos. S. Wilson, Com'r, to C. C. Carpenter, reg. of State land office, dated May 21, 1868, hereto attached as Exhibit No. 8.

105 Def't then introduced in evidence a letter of O. H. Browning, Sec'y, to Jos. S. Wilson, Com'r, dated May 7, 1860, hereto attached as Exhibit No. 9.

It is here admitted by counsel for the def't that the fact is that none of the lands in the indemnity lists in def't's Exhibit No. 4 have ever been deeded by the State of Iowa to the Des Moines Navigation and Railroad Company, but that the great bulk of the same has been conveyed by the State to the Des Moines Valley Railroad Company.

Def't then introduced in evidence so much of the message of James Clark, governor of the State of Iowa, to the first general assembly of the State of Iowa, dated Dec. 2d, 1846, and referring to the Des Moines River

106 grant of August 8th, 1846, as is in the words following, to wit:

"The precise extent of the grant cannot be ascertained at present, but I feel warranted in stating, from information derived from the most reliable sources, that it will cover upwards of three hundred thousand acres of the most fertile and valuable lands in Iowa."

Here the respective parties, by counsel, announced the close of their testimony before the undersigned, and hereto I have affixed my certificate in words following, to wit:

107 WILLIAM B. WELLES }
vs.
HANNAH RILEY. }

UNITED STATES OF AMERICA, *District of Iowa, ss:*

I hereby certify that the foregoing are the depositions of witnesses both on the part of complainant and defendant, sworn and examined before me in the above-entitled cause, and that the deposition of each witness was carefully read over by me to him before signing the same; and that the exhibits hereto attached, and severally marked A to T, inclusive, on the part of pl'ff, and No. 1 to 9, inclusive, on the part of def't, and severally indorsed by me, were introduced in evidence before me, except as to def't's Exhibit No. 3, which being of public record and published, it was agreed might be read on the trial from the published acts and resolutions of the State of Iowa, and so is not

108 attached hereto; and the production of and attaching hereto of the commission of the U. S. circuit court, authorizing the taking of the foregoing evidence by me, was, at the beginning of the examination, waived by counsel for respective parties.

Witness my hand this 27th day of October, 1869.

S. SIBLEY, *U. S. Com'r.*

Fees, 1,000 folios, $200.
Received payment of the pl'ff.

S. SIBLEY, *Com'r.*

109 United States circuit court, district of Iowa.

WILLIAM B. WELLES }
vs.
HANNAH RILEY. }

It is hereby stipulated and agreed by the parties hereto that all and

each and every of the documents and papers offered in evidence by the respective parties, before Stephen Sibley, esq., commissioner, appointed by this court to take depositions hereon, as exhibits, and by him mentioned and referred to in his report and certificate as such commissioner, he on the hearing of this action deemed and treated and regarded as having been in all respects duly and formally proved, so as to authorize their admission in evidence, all objections to the same on account of the want or absence of the formal proof and authentication or exemplification thereof being hereby waived; but all legal and valid
110 objections on the ground of incompetency or irrelevancy, and objection to any of such documents and papers may be made and raised by the party desiring to exclude the same on the hearing, it being the intent and object of this stipulation to permit and allow each and every of such documents and papers to be read in evidence on the hearing hereof, as duly and properly proved, authenticated, and exemplified, except such of the same as the court may exclude on the ground of incompetency or irrelevancy.

Oct. 27th, 1869.

FINCH & RIVERS, & J. M. ELLWOOD,
Sol's for Pl'ff.
GALUSHA PARSONS, *Def't's Solicitor.*

111

112 *Pl'ff's Exhibit B.—S. Sibley, Com'r.*

This indenture, made this third day of May, one thousand eight hundred and fifty-eight, by and between the State of Iowa, party of the first part, and the Des Moines Navigation and Railroad Company, parties of the second part, witnesseth:

That the said party of the first part, for and in consideration of one dollar paid by the parties of the second part, and in pursuance of the contracts and agreements between the State of Iowa and the said Des Moines Navigation and Railroad Company, for the improvement of the Des Moines River, does hereby sell, grant, bargain, and convey to the said Des Moines Navigation and Railroad Company the following referred to and described lands, to wit:

(Here follows a description of several thousand acres of land, set forth specifically by sections, townships, and range, including the lands mentioned in the pleadings in this suit.)

To have and to hold the above-described lands, and each and every parcel thereof, with all the rights, privileges, immunities, and appurtenances of whatever nature thereunto belonging or appertaining unto the Des Moines Navigation and Railroad Company, their successors and assigns, forever, in fee simple.

In testimony whereof, I, Ralph P. Lowe, governor of the State of Iowa, have caused the great seal of the State of Iowa to be hereunto affixed.

Given under my hand, at the city of
{ THE GREAT SEAL OF THE STATE OF IOWA. } Des Moines, the day and year first above written, and of the State of Iowa the twelfth year.

By the governor:
(Signed) RALPH P. LOWE.
(Signed) ELIJAH SELLS,
Secretary of State.

This is to certify that the foregoing deed was received from the gov-

ernor, June 10, 1858, and recorded in Des Moines River Records, Book A, pages 41, 42, 43, and 44, June 18, 1858.

(Signed) T. S. PARRIN,
Register of the State Land Office.
By D. S. WARREN,
Deputy.

113 *Pl'ff's Exhibit C.—S. Sibley, Com.*

For and in consideration of thirty-six thousand eight hundred and ninety & $\frac{83}{100}$ dollars, the Des Moines Navigation and Railroad Company (a corporation organized under the laws of the State of Iowa) do hereby grant and convey to William B. Welles, of the city & State of New York, the following tracts of land in the State of Iowa, to wit: In Webster County, all of section nineteen, in township eighty-eight, range twenty-eight, containing six hundred and twenty-one & $\frac{58}{100}$ acres; also the northeast quarter of the southeast quarter, the west half of the northwest quarter, the west half of the southwest quarter; lot one, containing twenty-two & $\frac{86}{100}$ acres; lot two, containing forty-five & $\frac{24}{100}$ acres; lot three, containing thirty-nine & $\frac{53}{100}$ acres; lot four, containing forty-six & $\frac{51}{100}$ acres; lot five, containing fifty-six & $\frac{70}{100}$ acres; lot six, containing thirty-one & $\frac{32}{100}$ acres; lot seven, containing twenty-six & $\frac{63}{100}$ acres, and lot eight, containing forty-four & $\frac{46}{100}$ acres, making a total of five hundred and thirteen & $\frac{25}{100}$ acres, of section thirty-five, in township eighty-eight, range twenty-eight; also all of section eleven, in township eighty-eight, range twenty-nine; also all of section thir-

114 teen, in township eighty-eight, range twenty-nine; also all of section seventeen, in township eighty-eight, range twenty-nine; also the south half of section twenty-three, in township eighty-eight, range twenty-nine; also all of section twenty-five, in township eighty-eight, range twenty-nine; also all of section thirty-three, in township eighty-nine, range twenty-eight, being a total of four thousand six hundred and fifty-four & $\frac{83}{100}$ acres.

And the said Des Moines Navigation and Railroad Company doth hereby warrant the title against all persons whomsoever.

In witness whereof, Roswell S. Burrows, president, and William B. Welles, treasurer of said company, having been hereunto duly authorized, have hereunto set our hands and affixed the seal of said company the thirteenth day of November, in the year one thousand eight hundred and fifty-eight.

R. S. BURROWS, *Pres't.*
W. B. WELLES, *Treasurer.*

STATE OF NEW YORK, *County of New York, ss:*

115 I certify that I, the subscriber, am a commissioner for the State of Iowa in and for the State of New York; that on the thirteenth day of November, 1858, personally appeared before me R. S. Burrows, president, and Wm. B. Welles, treasurer, personally known by me to be the identical persons whose names are affixed to the within deed as grantors, and acknowledged the instrument to be their voluntary act and deed; and that the seal hereunto affixed is the seal of the said Des Moines Navigation & R. R. Company.

Given under my hand and official seal on the day and date above written.

[SEAL.] JAS. C. PATTERSON,
Commissioner for Iowa in New York.

Whereas the Des Moines Navigation and Railroad Company did, on the twenty-seventh day of August, 1855, sell, assign, transfer, and set over to me, Daniel B. St. John, by mortgage and in trust, to secure the payment of bonds to be issued by the said Des Moines Navigation and Railroad Company in the construction of the Des Moines River im-
116 provement, as authorized by the State of Iowa, all the lands which the Des Moines Navigation and Railroad Company then had, or should at any time hereafter have or be entitled to under its contracts with the State of Iowa, for the purpose aforesaid; and the said mortgage or deed of trust embraced the lands described in the accompanying deed, and it is expressly covenanted in the said mortgage deed of trust that whenever the trustees of the sinking fund in said mortgage provided should certify to me that they have received from said company, in cash, or in securities which are the first lien on said lands, or in the bonds issued in pursuance of said mortgage, to an amount equal to three dollars per acre of the lands required to be released from the lien of said mortgage, that it should be my duty to release the same:

Now, therefore, this deed of release witnesseth, That the trustees of the sinking fund in said mortgage or deed of trust provided have duly certified to me that they have received from said company thirteen thousand nine hundred and sixty-four $\frac{49}{100}$ dollars in bonds cancelled by the certificate of the trustees, which is to me satisfactory evi-
117 dence of the same; and I hereby release, convey, and set over, free, clear, and discharged from said mortgage or deed of trust, bearing date this 27th day of August, 1855, all the lands in the State of Iowa in the annexed deed described and conveyed.

In testimony whereof, I have hereunto set my hands and duly executed this release this nineteenth day of November, 1858.

D. B. ST. JOHN, *Trustee.*

STATE OF NEW YORK, *County of New York, ss:*

I certify that I, the subscriber, am a commissioner for the State of Iowa in & for the State of New York; that on the nineteenth day of November, 1858, personally appeared before me D. B. St. John, trustee, who was personally known by me to be the identical person whose name is affixed to the within deed of release, and acknowledged the same to be his voluntary act and deed.

Given under my hand and official seal the day and year above written.

[SEAL.] JAS. C. PATTERSON,
Commissioner for Iowa in New York.

118 Endorsed:

STATE OF IOWA, *Webster County, ss:*

Recorded on the thirteenth day of November, 1858, at 10 o'clock a. m., in Book "B" of deeds, at pages 631-'2-'3.

E. G. MORGAN, *Recorder.*

Fees paid; indexed.

120 *Pl'ff's Exhibits D.—S. Sibley, Com'r.*

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
October 16th, 1868.

I, Joseph S. Wilson, Commissioner of the General Land Office, do hereby certify that the annexed printed documents and letter of April

20th, 1862, to the land officers at Iowa City, Iowa, are a true and literal exemplification of the originals on file in this office.

In testimony whereof, I have hereunto subscribed my name and caused the seal of this office to be affixed at the city of Washington, on the day and year above written.

[SEAL.]

JOS. S. WILSON,
Commissioner of the General Land Office.

121

GENERAL LAND OFFICE,
February 23d, 1848.

"SIR: Your communication of the 29th of November last, enclosing a copy of yours of the 22d September last, has been received, and would have received an earlier response, but for the erroneous and defective surveys along the Des Moines River, which prevented this office from submitting to the Secretary of the Treasury the selections made by the State of Iowa for the improvement of the navigation of that river, under the act of the 8th of August, 1846. As these surveys have been corrected, action will be had on these selections as soon as possible, and when approved they will be certified to you.

It is not usual to furnish more than a diagram of the grant in cases of this kind, with a certified list of the tracts granted as above mentioned; and these will, of course, be transmitted as they can be prepared.

All the aid that this office can give the board of public works, in the discharge of its duties, will be cheerfully rendered, and, if it is possible to procure copies of the report of the topographical bureau of the examination heretofore made of the Des Moines River, it will afford me pleasure to do so, and forward them to you.

A question has arisen as to the extent of the grant made to Iowa by the act of 8th of August, 1846, and the opinion of this office has been requested on that point.

By the terms of the law, the grant is of an equal moiety in alternate sections of the public lands remaining unsold, and not otherwise disposed of, incumbered, or appropriated, in a strip of five miles in width on each side of the river, to be selected within said Territory, &c., &c., and the proceeds are to be applied in the improvement of the navigation of that river, from its mouth to the Raccoon Forks. Hence the State is entitled to the alternate sections within five miles of the Des Moines River, throughout the whole extent of that river, within the limits of Iowa.

Very respectfully, your obedient servant,

RICHARD M. YOUNG,
Commissioner.

CHARLES CORKREY, Esq.,
Secretary of Board of Public Works, Fairfield, Iowa.

TREASURY DEPARTMENT, *March 2*, 1849.

GENTLEMEN: I have the honor to acknowledge the receipt of your communication of 8th January last, and accompanying papers, on the construction of the act of Congress granting lands to the Territory of Iowa to aid in the improvement of the navigation of the Des Moines River, in said Territory, approved 8th August, 1846. I concur with you in the views contained in your communication, and am of the opinion that the grant in question extends, as therein stated, on both sides of the river, from its source to its mouth, but not to lands on the river in the State of Missouri. I have transmitted your communication and

accompanying papers, with a copy of this letter, to the Commissioner of the General Land Office.

I have the honor, &c.,

R. J. WALKER,
Secretary of Treasury.

Messrs. A. C Dodge, G. W. Jones, S. Leffler, W. Thompson.

122 Treasury Department, *March* 2, 1849.

Sir: For your information and government on the subject to which it refers, I enclose a copy of a letter addressed by me under this date to members in both houses of Congress from the State of Iowa, with reference to the construction of the act of 8th of August, 1846, granting certain lands to the Territory of Iowa, to aid in the improvement of the navigation of the Des Moines River. I also enclose a letter, to which the within is a reply, and accompanying papers.

Very respectfully,

R. J. WALKER,
Secretary.

R. M. Young, *Commissioner.*

General Land Office, *June* 1, 1849.

Register and Receiver, *Iowa City, Iowa:*

Gentlemen: The Secretary of the Treasury having decided that the grant to the State of Iowa, under the act of the 8th of August, 1846, extended along the Des Moines River to its source, and that it did not stop at the Raccoon Forks, as this office had previously decided, you are hereby directed to withhold from sale all the lands situated in the odd-numbered sections within five miles on each side of the river above the Raccoon Forks.

Enclosed I send you a diagram, upon which the State selections above that point are colored yellow. I have also to request that you will make out a list showing the sales and locations which have been made within these sections, as it is designed to endeavor to procure some legislative action on the part of Congress confirmatory of them.

The diagram enclosed extends to 83 N., 26 W., being as far as the surveys have progressed in that direction.

I am, very respectfully, your obedient servant,

RICHARD M. YOUNG.

Land Office, Iowa City, *June* 16, 1849.

Sir: Your letter of the 1st instant, directing us to withhold from sale the odd sections above the Raccoon Forks of the Des Moines, together with the accompanying diagram, were received yesterday. We will attend to the duties imposed by your letter at the earliest practicable moment, and transmit to your office the abstract showing the sales and locations on the State sections.

We are, very respectfully, your obedient servants,

JESSE BOWEN, *Register.*
EASTON MORRIS, *Receiver.*

Hon. Commissioner of the General Land Office,
Washington, D. C.

123 Register's Office, Iowa City, *June* 21, 1849.

Sir: I herewith transmit to you a list of the sales and locations of lands on the odd sections within five miles of the Des Moines River,

above the Raccoon Forks of said river, in obedience to your instructions of June 1, 1849.

Very respectfully, your obedient servant,

JESSE BOWEN, *Register.*

Hon. COMMISSIONER OF THE GENERAL LAND OFFICE.

DEPARTMENT OF THE INTERIOR,
Washington, October 29, 1851.

SIR: I herewith return all the papers in the Des Moines case, which were recalled from your office about the first of the present month.

I have considered and carefully reviewed my decision of the 26th July last, and in doing so find that no decision which I can make will be final, as the question involved partakes more of a judicial than an executive character, which must ultimately be determined by the judicial tribunals of the country, and, although my own opinion on the true construction of the grant is unchanged, yet in view of the great conflict of opinion among the executive officers of the government, and also in view of the opinions of several eminent jurists which have been presented to me in favor of the construction contended for by the State, I am willing to recognize the claim of the State, and to approve the selections without prejudice to the rights, if any there be, of other parties, thus leaving the question as to the proper construction of the statute entirely open to the action of the judiciary. You will please, therefore, as soon as may be practicable, submit for my approval such lists as may have been prepared, and proceed to report for like approval lists of the alternate sections claimed by the State of Iowa above the Raccoon Forks, as far as the surveys have progressed, or may hereafter be completed and returned.

Very respectfully, &c., &c.,

A. H. H. STUART, *Secretary.*

The COMMISSIONER OF THE GENERAL LAND OFFICE.

GENERAL LAND OFFICE, *March* 16, 1852.

REGISTER, *Dubuque, Iowa:*

SIR: I herewith transmit an exemplified copy of a list showing the vacant lands in the odd-numbered sections above the Raccoon Forks, and within five miles of the Des Moines River, so far as the surveys have progressed, falling to the State of Iowa, under act of 8th August, 1846, as construed by the Secretary of the Treasury in his letter of 2d of March, 1849, and the Secretary of the Interior of 29th October, 1851, approved by the Secretary of the Interior on the 10th inst., a copy of which has been sent to George Gillaspy, esq., register, &c.

I am, very respectfully, your obedient servant,

J. BUTTERFIELD,
Commissioner.

DEPARTMENT OF THE INTERIOR,
124 *November 10th,* 1856.

SIR: Having duly considered the subject brought to my attention personally a few days since, and specailly referred to in your letter of this date, I have not been able to satisfy myself that the department has any power to issue patents, where the law not only does not authorize it to be done, but provides another mode for the passing of the title to the lands in question; and the practice having been in ac-

cordance with this view of the absence of authority, I deem it proper to adhere to it.

In the opinion of the Attorney General of the 29th May last, in the Des Moines River case, it is stated: "In so far as regards selections already approved, whether by yourself or by Mr. Stuart, it is clear that the government cannot undo that. What Mr. Stuart did in this respect with deliberation, what you did without the question involved being suggested to you, was, in each case, done by the competent legal authority, and binds the government. One Secretary has no more lawful power to undo a thing lawfully done by his predecessor in a matter of grant than in a matter of account—no more right, where a settlement is in favor of a third party than where it is in favor of the United States. Where a thing is decided and done by the head of a department, acting within the scope of his lawful authority, it can be revised by his successor only on the ground of mistake in a matter of fact, or the discovery and production of material new testimony. (Mr. Crittenden's opinion of December 28th, 1852, M. S.; see also Bank of Metropolis *vs.* the United States, XV Peters, p. 400; *ex parte* Randolph, II Brocken, p. 470.)

"If the acts of Mr. Stuart and yourself, in this respect, had undertaken (as they do not) to dispose of any contending rights of third parties, the latter would have had their remedy at law. But what you have done is final as respects the United States."

In the foregoing views of the Attorney General I have concurred; and for the reason that the acts of approval by Mr. Stuart and myself have divested the United States of the title, I can see still further ground to decline issuing a patent or patents, as that would be assuming that the title had not yet passed, and the question would be yet open for adjustment, like selections not yet approved.

Respectfully, your obedient servant,

R. McCLELLAND, *Secretary.*

To Hon. R. JOHNSON, *Baltimore, Md.*

DEPARTMENT OF THE INTERIOR,
Washington, May 8th, 1856.

Hon. CHARLES MASON, *Agent of the State of Iowa:*

SIR: I have to acknowledge the receipt of your communication of the 30th ultimo, relative to the settlement of the controversy as to the extent of the Des Moines River grant.

The decision of my immediate predecessor of the 9th June, 1856, I regard as a proposition made to the State of Iowa for a final adjustment, and your present communication is not an acceptance of the proposition on the part of the State. When it is considered that nearly two years have elapsed, and no formal acceptance has, in the mean time, been presented here, if this be the only communication you have to make, I feel authorized to regard your letter, now before me, as an authoritive rejection of that proposition.

Very respectfully, your obedient servant,

J. THOMPSON, *Secretary.*

125 DEPARTMENT OF THE INTERIOR,
Washington, March 26, 1859.

SIR: I transmit to your office herewith a copy of the opinion given on the 22d November last by the Attorney General of the United States as to the extent of the grant to the State of Iowa to aid in the improvement of the navigation of the Des Moines river, by the act of Congress

approved August 8th, 1846, and also a copy of my communication of the 25th August, which elicited this opinion.

In the views of the Attorney General as thus expressed I fully concur, and it, therefore, only remains for me to inform you that no future action can be taken in this department, or in your office, which will recognize the grant as extending above the Raccoon Forks of the Des Moines River.

Lists of selections, which have been approved by my predecessors, will be respected by your office.

Very respectfully, your obedient servant,

J. THOMPSON, *Secretary.*

The COMMISSIONER OF THE GENERAL LAND OFFICE.

No. 661.—*Notice respecting certain lands in the State of Iowa.*

Notice is hereby given that the lands along the Des Moines River, in Iowa, and within the claimed limits of the Des Moines grant in that State, above the mouth of the Raccoon Forks of said river, which have been reserved from sale heretofore on account of the claim of the State thereto will continue reserved, for the time being, from sale, or from location, by any species of scrip or warrants, notwithstanding the recent decision of the Supreme Court against the claim.

This action is deemed necessary to afford time for Congress to consider, upon memorial or otherwise, the case of actual bona fide settlers, holding under titles from the State, and to make such provision, by confirmation or adjustment of the claims of such settlers, as may appear to be right and proper.

JOS. S. WILSON,
Commissioner of the General Land Office.

GENERAL LAND OFFICE, *May* 18, 1860.

126 GENERAL LAND OFFICE, *August* 13, 1860.

SIR: I have the honor to lay before you—No. 1—a proclamation of public lands in the Fort Dodge and Sioux City districts, Iowa, embracing 1,270,623 acres heretofore unoffered, the sales to be held as follows:

At Fort Dodge, November 19, 1860.

At Sioux City, November 26, 1860.

This (No. 1) proclamation embraces the lands in the yellow shades on the enclosed Diagram "A;" also those in the blue shades. The blue shades are lands above the Raccoon Forks, which had been claimed under the Des Moines River grant before the recent decision of the Supreme Court. It does not, however, embrace any of the lands south of the blue shades and above the Forks, which had been certified to the State under sanction of your predecessors, according to the then claimed limits of the Des Moines grant.

No. 2 is an alternate proclamation for 496,730 acres, excluding the blue-shaded lands, and only embracing the yellow, and is submitted in case it should be decided to await action by Congress over the whole claimed extent of the Des Moines grant.

Very respectfully, your obedient servant,

JOS. S. WILSON, *Commissioner.*

(Indorsement:)

DEPARTMENT OF THE INTERIOR,
August 14, 1860.

Respectfully submitted to the President, with the recommendation that the lands be proclaimed for sole according to the form No. 1 enclosed.

J. THOMPSON, *Secretary.*

GENERAL LAND OFGICE, *April 20th*, 1852.

REGISTER, *Iowa City, Iowa:*

SIR: I herewith transmit a list showing the vacant lands in the Iowa City district, in the odd-numbered sections above the Raccoon Forks, and within five miles of the Des Moines River, so far as the surveys have progressed, falling to the State of Iowa under the act of 8th August, 1846, as construed by the Secretary of the Treasury in his letter 2d March, 1849, and of the Secretary of the Interior of 29th October, 1851, which have not heretofore been approved. Complete lists approved by the Secretary of the Interior, 10th March, were transmitted to the State register and to the register of land office at Dubuque, on the 16th ultimo.

I am, very respectfully, your obedient servant,

J. BUTTERFIELD, *Commissioner.*

127 *Pl'ff's Exhibit E.—S. Sibley, Com.*

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
October 16th, 1868.

I, Joseph S. Wilson, Commissioner of the General Land Office, do hereby certify that the annexed copies are a true and literal exemplification of the originals on file in this office.

In testimony whereof, I have hereunto subscribed my name and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.] JOS. S. WILSON,
Commissioner of the General Land Office.

128 OFFICE OF BOARD OF PUBLIC WORKS,
Ottumwa, Iowa, February 15, 1851.

SIR: The undersigned board of public works of the State of Iowa have been notified by our honorable senators in Congress, that the honorable Secretary of the Interior has intimated in advance of a formal decision in relation to the extent of the grant of lands made to the Territory of Iowa by the act of Congress approved August 8, 1846, that a difficulty might arise against the construction put upon said act by the State authorities, growing out of the supposed fact that the agents appointed under the territorial government have not made the selection required by the act, beyond the lands embraced in the diagram furnished by the General Land Office and returned to the same by Jesse Williams, one of said agents.

The present board of public works, as well as their predecessors in office, have ever regarded the selection made by said agents as co-extensive with the grant, and as not limited by the diagram alluded to, which only embraced the lands contiguous to the Des Moines River, then surveyed. The selection in general terms of the odd sections was supposed to apply to all lands embraced in said grant, as well those surveyed at the time as those thereafter to be surveyed, nor has any formal selection of the lands since surveyed been deemed necessary. Both the former and present board of public works have sold lands not embraced in said diagram, and lying below the mouth of Raccoon River, and lists of said lands have been furnished by the General Land Office and confirmed by the Secretary of the Treasury, and yet no selections of these lands has been made beyond that of the territorial agents. To avoid, however, the difficulty suggested by the honorable Secretary of the Interior, but not admitting that a selection of said lands

has not been made in accordance with said act, we, the undersigned, hereby notify the Commissioner of the General Land Office, that we have selected all the lands within five miles of the river Des Moines that are embraced within the odd sections, from the mouth of said river to the source of the same, not embraced in the selection heretofore made by the territorial agents, as granted to the Territory of Iowa to aid in the improvement of the navigation of the Des Moines River from its mouth to the Raccoon Fork, (so-called,) in said Territory by the act of Congress of the 8th of August, 1846.

We also request to be furnished, at as early a day as practicable, with a diagram and confirmed list of said lands lying above the Raccoon Forks, and as far up said river as the surveys have been completed.

We are, with high respect, your obedient servants,

WILLIAM PATTERSON, *President.*
JESSE WILLIAMS, *Secretary.*
GEORGE GILLASPY, *Treasurer.*

HON. J. BUTTERFIELD,
Commissioner of General Land Office, Washington City, D. C.

(Indorsement:)

SENATE, *March* 10, 1851.

A. C. DODGE:

Enclosed communication from the board of internal improvement, of the State of Iowa, reselect the odd-numbered sections throughout the whole extent of the grant of land made to the State of Iowa, by act of 8th August, 1846.

KEOKUK, *Feburary 22d*, 1851.

To Hon. ALEX. STUART:

As agents of the State of Iowa, we demand all the odd sections of land within five miles of the Des Moines River, above Raccoon Forks, for improvement of said river, as provided by the act of Congress upon that subject.

WM. PATTERSON,
President of Board of Public Works.
J. WILLIAMS, *Secretary.*

129[1] *Pl'ff's Exhibit F.—S. Sibley, Com.*

GENERAL LAND OFFICE,
January 6th, 1854.

I, John Wilson, Commissioner of the General Land Office, do hereby certify that the annexed copy of a list of tracts falling to the State of Iowa under act of the 8th August, 1846, is a true and literal exemplification from the original now on file in this office.

In testimony whereof, I have hereunto subscribed my name and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[L. S.] JOHN WILSON,
Commissioner of the General Land Office.

GENERAL LAND OFGICE, *April 20th*, 1852.

REGISTER, *Iowa City, Iowa:*

SIR: I herewith transmit a list showing the vacant lands in the Iowa City district, in the odd-numbered sections above the Raccoon Forks, and within five miles of the Des Moines River, so far as the surveys have progressed, falling to the State of Iowa under the act of 8th August, 1846, as construed by the Secretary of the Treasury in his letter 2d March, 1849, and of the Secretary of the Interior of 29th October, 1851, which have not heretofore been approved. Complete lists approved by the Secretary of the Interior, 10th March, were transmitted to the State register and to the register of land office at Dubuque, on the 16th ultimo.

I am, very respectfully, your obedient servant,

J. BUTTERFIELD, *Commissioner.*

127 *Pl'ff's Exhibit E.—S. Sibley, Com.*

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
October 16th, 1868.

I, Joseph S. Wilson, Commissioner of the General Land Office, do hereby certify that the annexed copies are a true and literal exemplification of the originals on file in this office.

In testimony whereof, I have hereunto subscribed my name and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.] JOS. S. WILSON,
Commissioner of the General Land Office.

128 OFFICE OF BOARD OF PUBLIC WORKS,
Ottumwa, Iowa, February 15, 1851.

SIR: The undersigned board of public works of the State of Iowa have been notified by our honorable senators in Congress, that the honorable Secretary of the Interior has intimated in advance of a formal decision in relation to the extent of the grant of lands made to the Territory of Iowa by the act of Congress approved August 8, 1846, that a difficulty might arise against the construction put upon said act by the State authorities, growing out of the supposed fact that the agents appointed under the territorial government have not made the selection required by the act, beyond the lands embraced in the diagram furnished by the General Land Office and returned to the same by Jesse Williams, one of said agents.

The present board of public works, as well as their predecessors in office, have ever regarded the selection made by said agents as co-extensive with the grant, and as not limited by the diagram alluded to, which only embraced the lands contiguous to the Des Moines River, then surveyed. The selection in general terms of the odd sections was supposed to apply to all lands embraced in said grant, as well those surveyed at the time as those thereafter to be surveyed, nor has any formal selection of the lands since surveyed been deemed necessary. Both the former and present board of public works have sold lands not embraced in said diagram, and lying below the mouth of Raccoon River, and lists of said lands have been furnished by the General Land Office and confirmed by the Secretary of the Treasury, and yet no selections of these lands has been made beyond that of the territorial agents. To avoid, however, the difficulty suggested by the honorable Secretary of the Interior, but not admitting that a selection of said lands

has not been made in accordance with said act, we, the undersigned, hereby notify the Commissioner of the General Land Office, that we have selected all the lands within five miles of the river Des Moines that are embraced within the odd sections, from the mouth of said river to the source of the same, not embraced in the selection heretofore made by the territorial agents, as granted to the Territory of Iowa to aid in the improvement of the navigation of the Des Moines River from its mouth to the Raccoon Fork, (so-called,) in said Territory by the act of Congress of the 8th of August, 1846.

We also request to be furnished, at as early a day as practicable, with a diagram and confirmed list of said lands lying above the Raccoon Forks, and as far up said river as the surveys have been completed.

We are, with high respect, your obedient servants,

WILLIAM PATTERSON, *President.*
JESSE WILLIAMS, *Secretary.*
GEORGE GILLASPY, *Treasurer.*

Hon. J. BUTTERFIELD,
Commissioner of General Land Office, Washington City, D. C.

(Indorsement:)

SENATE, *March* 10, 1851.

A. C. DODGE:

Enclosed communication from the board of internal improvement, of the State of Iowa, reselect the odd-numbered sections throughout the whole extent of the grant of land made to the State of Iowa, by act of 8th August, 1846.

KEOKUK, *Feburary 22d*, 1851.

To Hon. ALEX. STUART:

As agents of the State of Iowa, we demand all the odd sections of land within five miles of the Des Moines River, above Raccoon Forks, for improvement of said river, as provided by the act of Congress upon that subject.

WM. PATTERSON,
President of Board of Public Works.
J. WILLIAMS, *Secretary.*

129[1] *Pl'ff's Exhibit F.—S. Sibley, Com.*

GENERAL LAND OFFICE,
January 6th, 1854.

I, John Wilson, Commissioner of the General Land Office, do hereby certify that the annexed copy of a list of tracts falling to the State of Iowa under act of the 8th August, 1846, is a true and literal exemplification from the original now on file in this office.

In testimony whereof, I have hereunto subscribed my name and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[L. S.] JOHN WILSON,
Commissioner of the General Land Office.

A list of lands falling within the Des Moines River grant, under act of 8th August, 1846, selected by the State under the act of September, 1841, on the 20th of July, 1850, and erroneously approved 20th February, 1851, previous to the adjustment of the grant and before it was known that they belonged to the State under the Des Moines River grant.

Tracts.	S.	T.	R.	Quantity.	Remarks.
W. ½ of S. W	5	87	26	80.	Embraced by list No. 49.
All	7	"	"	597. 92	" " "
N. ½	9	"	"	320.	" " "
S. ½	15	"	"	320.	" " "
All	19	"	"	609. 18	" " "
N. ½	21	"	"	320.	" " "
W. ½	23	"	"	320.	" " "
130[2] N. W. ¼	27	"	"	160.	" " "
W. ½ of N. E., E. ½ of N. W., W. ½ of S. E., and E. ½ of S. W.	29	"	"	320.	" " 51.
All	31	"	"	605. 92	" " "
N. fr'l ½ of N. W. ¼, and lots 1, 2, 3, 4	1	86	27	241. 56	" " "
S. ½	11	"	"	320.	" " "
S. W ¼ and W. ½ of S. E. ¼	1	87	27	240.	" " 53.
N. E ¼	7	"	"	160.	" " "
N. ½	9	"	"	320.	" " "
E. ½	11	"	"	320.	" " "
All	13	"	"	640.	" " 52.
				5, 894. 68	
Lots 3 and 4	15	87	27	113. 90	Embraced by list No. 52.
All	19	"	"	618. 40	" " 51.
N. E. ¼, N. E. ¼ of N. W. ¼, E. ½ of S. E. ¼, and lots 4, 5, 6, 7, 8.	23	"	"	475. 50	" " 52.
N. E. ¼, E. ½ of N. W., N. W. of N. W., N. ½ of S. E., S. E. of S. E., and lots 1, 2, 3, 4, 5.	25	"	"	604. 25	" " 51 & 52.
W. ½	27	"	"	320.	" " 51.
All	29	"	"	640.	" " "
All	31	"	"	626. 44	" " "
E. ½	33	"	"	320.	" " "
W. ½ of N. E., S. E. ¼, and E. ½ of N. W. ¼	31	88	27	320.	" " 53.
S. E. ¼	3	87	28	160.	" " 50.
N. E. ¼	11	"	"	160.	" " "
E. ½ of S. E., N. W. of S. E., and lots 1, 2, 3.	5	88	28	252. 44	" " "
W. ½ and N. E. ¼	7	"	"	468.	" " "
E. ½ and N. ½ of N. W. ¼	11	"	"	400.	" " 54.
S. W. ¼	13	"	"	160.	" " "
W. ½ of S. W. ¼	17	"	"	80.	" " 50.
E. ½ of N. E. ¼	19	"	"	80.	" " "
S. ½	21	"	"	320.	" " "
E. ½	25	"	"	320.	" " 53.
N. ½ and S. E. ¼	33	"	"	480.	" " 50.
				6, 918. 93	
Am't bro't over				5, 894. 58	
Acres				12, 813. 51	

131[3] DEPARTMENT OF THE INTERIOR,
December 30, 1853.

The sections embraced in the within list are hereby approved to the State of Iowa, under act of August 8, 1846, without prejudice to the rights, if any there be, of other parties.

R. MCCLELLAND,
Secretary.

132*a* GENERAL LAND OFFICE,
January 6th, 1854.

I, John Wilson, Commissioner of the General Land Office, do hereby certify that the annexed copy of a list of tracts, falling to the State of Iowa under act of 8th August, 1846, is a true and literal exemplification from the original on file in this office.

In testimony whereof, I have hereunto subscribed my name, and

caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[L. S.]

JOHN WILSON,
Commissioner of the General Land Office.

A list showing the vacant lands in the odd-numbered sections above the Raccoon Forks, and within five miles of the Des Moines River, so far as the surveys have progressed, falling to the State of Iowa under the act of the 8th August, 1846, as construed by the Secretary of the Treasury in his letter of 2d March, 1849, and of the Secretary of the Interior of the 29th October, 1851, which have not heretofore been approved.

	Tracts.	S.	T.	R.	Quantities.
	Section	19	89 N.	28 W.	446.84
	Lot No. 1	5	91	27	35.
	Lot No. 2	"	"	"	41.28
	S. W. ¼ of N. E. ¼	"	"	"	40.
	N. E. frl. ¼ of N. W. ¼	"	"	"	41.74
	N. W. frl. ¼ of N. W. ¼	"	"	"	41.65
	S. ½ of N. W. ¼	"	"	"	80.
	S. ½	"	"	"	320.
133*b*	Section	7	91	27	668.54
	W. frl. ½ of N. W. ¼	31	"	"	97.
	Sec	5	92	27	691.80
	Sec	7	"	"	658.24
	Sec	9	"	"	640.
	W. ½ of N. W. ¼	15	"	"	80.
	Sec	17	"	"	640.
	Sec	19	"	"	665.92
	Sec	21	"	"	615.65
	Sec	29	"	"	639.84
	Sec	31	"	"	668.68
	Sec	1	91	28	635.52
	Sec	3	"	"	627.42
	Sec	5	"	"	636.08
	Lot No. 1	7	"	"	12.
	Lot No. 2	"	"	"	20.
	Sec	9	"	"	640.
	Sec	11	"	"	640.
	Sec	13	"	"	640.
	Sec	15	"	"	640.
	E. ½	17	"	"	320.
	E. ½ of N. W. ¼	"	"	"	80.
	Lot No. 1	"	"	"	27.40
	Lot No. 2	"	"	"	39.20
	S. W. ¼	"	"	"	160.
	Lot No. 1	19	"	"	37.30
	Lot No. 2	"	"	"	52.05
	Lot No. 3	"	"	"	30.60
	Lot No. 4	"	"	"	68.35
	Sec	21	"	"	640.
	Sec	23	"	"	640.
	Sec	25	"	"	640.
	Sec	27	"	"	640.
	E. ½	29	"	"	320.
	E. ½ of N. W. ¼ and N. E. ¼ of S. W. ¼	"	"	"	120.
134*c*	Lot No. 1	29	91	28	35.10
	Lot No. 2	"	"	"	43.55
	Lot No. 3	"	"	"	36.
	Lot No. 4	"	"	"	61.60
	Lot No. 1	31	"	"	35.70
	Sec	33	"	"	640.
	Sec	35	"	"	640.
	Sec	1	92	"	690.80
	N. E. frl. ¼ of N. E. ¼	3	"	"	52.26
	N. W. frl. ¼ of N. E. ¼	"	"	"	52.26
	S. ½ of N. E. ¼	"	"	"	80.
	N. E. of N. W. ¼	"	"	"	52.26
	N. W. of N. W	"	"	"	52.26
	S. E. of N. W	"	"	"	40.
	E. ½ of S. E. ¼	"	"	"	80.
	N. W. ¼ of S. E. ¼	"	"	"	40.
	Lot No. 1	"	"	"	33.30
	Lot No. 2	"	"	"	39.30
	Lot No. 3	"	"	"	42.80
	N. ½	11	"	"	320.
	S. E. ¼	"	"	"	160.
	Lot No. 1	"	"	"	65.80
	Lot No. 2	"	"	"	53.
	Sec	13	"	"	640.
	Lot No. 1	15	"	"	15.40

Lot No. 2	"	"	"	3.30
Sec	23	"	"	640.
Sec	25	"	"	640.
Lot No. 1	27	"	"	65.20
Lot No. 2	"	"	"	51.18
Lot No. 3	"	"	"	36.
Lot No. 4	"	"	"	62.80
S. E. ¼ of N. E. ¼	"	"	"	40.
S. E. ¼	"	"	"	160.
Lot No. 1	31	"	"	20.90
135d Lot No. 1	33	92	28	37.70
Lot No. 2	"	"	"	36.27
Lot No. 3	"	"	"	54.65
Lot No. 4	"	"	"	53.
S. ½ N. E	"	"	"	80.
S. ½	"	"	"	320.
Sec	35	"	"	640.
Sec	1	87	29	668.16
N. E. frl. ¼ of N. E. ¼	3	"	"	46.90
Sec	1	88	"	679.73
Sec	3	"	"	733.18
Sec	5	"	"	740.10
Sec	7	"	"	613.28
Sec	9	"	"	640.
Sec	11	"	"	640.
Sec	13	"	"	640.
Sec	15	"	"	640.
Sec	17	"	"	640.
Sec	21	"	"	640.
Sec	23	"	"	640.
Sec	25	"	"	640.
Sec	27	"	"	640.
N. ½ of N. E. ¼	29	"	"	80.
Sec	35	"	"	640.
Lot No. 1	1	89	29	15.70
Lot No. 2	"	"	"	52.07
Lot No. 3	"	"	"	41.33
S. E. ¼ of S. E. ¼	"	"	"	40.
Lot No. 1	1	90	29	4.15
Lot No. 1	13	"	"	52.55
Lot No. 2	"	"	"	39.80
Lot No. 3	"	"	"	48.19
Lot No. 4	"	"	"	66.36
S. E. ¼ of N. E. ¼	"	"	"	40.
S. E. ¼	"	"	"	160.
136e Lot No. 1	25	90	29	21.68
Lot No. 2	"	"	"	52.20
E. ½ of N. E. ¼	1	88	30	106.56
E. ½ of S. E. ¼	"	"	"	80.
				3,460.59

RECAPITULATION.

Amount brought from folio 1, acres	5,803.66
" " " " 2 "	9,614.44
" " " " 3 "	4,644.69
" " " " 4 "	9,619.05
" " " " 5 "	3,460.59
Aggregate, acres	33,142.43

DEPARTMENT OF THE INTERIOR,
December 17, 1853.

The selections embraced in the within list are hereby approved to the State of Iowa under act of August 8th, 1846, without the prejudice to the rights, if any there be, of other parties.

R. McCLELLAND, *Secretary.*

137*i*

GENERAL LAND OFFICE,
March 16, 1852.

I, Justin Butterfield, Commissioner of the General Land Office, do hereby certify that the annexed list, showing the vacant lands in the odd-numbered sections above the Raccoon Forks, within five miles of the Des Moines River, approved March 10, 1852, is a true and literal exemplification from the original on file in this office.

In testimony whereof, I have hereunto subscribed my name and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[L. S.]

J. BUTTERFIELD,
Commissioner of the General Land Office.

138ii *A list showing the vacant lands in the odd-numbered sections above the Raccoon Forks, and within five miles of the Des Moines River, as far as the surveys have progressed, falling to the State of Iowa under the act of the 8th of August, 1846, as construed by the Secretary of the Treasury in his letter of 2d March, 1849, and of the Secretary of the Interior of the 29th October, 1851, not heretofore approved.*

Tracts.	S.	T.	R.	Quantities.
S. W. ¼ of S. W. ¼	31	84	25	42. 48
All of	3	84	26	713. 76
All of	5	"	"	718. 52
All of	7	"	"	603. 01
All of	9	"	"	640.
All of	11	"	"	640.
All of	15	"	"	640.
All of	17	"	"	640.
All of	19	"	"	624. 50
All of	21	"	"	640.
W. ½ of	23	"	"	320.
W. ½ and N. E. of N. E. ¼	"	"	"	120.
W. ½ of S. E. ¼	"	"	"	80.
W. ½ of S. E. ¼	25	"	"	80.
All of	27	"	"	640.
				7, 142. 21
All of	29	84	26	640.
139iii All of	31	"	"	599. 76
All of	33	"	"	640.
All of	35	"	"	640.
N. W. ¼ of N. W. ¼, and S. ½ of N. W. ¼, and S. W. ¼	3	85	26	277. 28
All of	5	"	"	629. 54
All of	7	"	"	611. 98
All of	9	"	"	640.
W. ½ S., S. W. ¼ of N. E. ¼, W. ½, and S. E. ¼ of S. E. ¼	15	"	"	480.
All of	17	"	"	640.
All of	19	"	"	616. 30
All of	21	"	"	640.
W. ½ of N. W. ¼ and S. W. ¼	23	"	"	240.
All of	27	"	"	640.
All of	29	"	"	640.
All of	31	"	"	618. 16
All of	33	"	"	640.
W. ½ of sect., and W. ½ of N. E. ¼, and W. ½ of S. E. ¼	35	"	"	480.
All of	3	86	26	625. 92
All of	5	"	"	624. 86
All of	7	"	"	606. 88
All of	9	"	"	640.
W. ½, W., ½ and N. E. ¼ of N. E. ¼, and W. ½ of S. E. ¼	11	"	"	520.
All of	15	"	"	640.
All of	17	"	"	640.
				14, 610. 62
140iv All of	19	86	26	607. 76
All of	21	"	"	640.
All of	29	"	"	640.
All of	31	"	"	607. 84
All of	33	"	"	640.
All of (except W. ½ of S. W. ¼)	5	87	26	583. 98
S. ½ of	9	"	"	320.
N. ½ of	15	"	"	320.
All of	17	"	"	640.
S. ½ of	21	"	"	320.
W. ½ of S. E. ¼	23	"	"	80.
E. ½ and S. W. ¼	27	"	"	480.
E. ½ of N. E. ¼, E. ½ of S. E. ¼, W. ½ of N. W., and W. ½ S. W. ¼	29	"	"	320.
All of	33	"	"	640.
All of	35	"	"	640.
S. W ¼ of S. W. ¼	29	88	26	40.
All of	31	"	"	580. 68
All of	1	81	27	593. 64
N. E ¼ and E ½ of S. E ¼	11	"	"	240.

N. ½, S. E. ¼, and E. ½ S. W. ¼	13	"	"	560.
E. ½ of N. E. ¼	25	"	"	80.
All of	1	82	"	633.66
All of	3	"	"	639.68
N. E. ¼ and E. ½ of S. E. ¼	9	"	"	240.
All of	11	"	"	640.
				11,727.24
141*viii* All of	13	82	27	640.
All of	15	"	"	640.
All of	23	"	"	640.
All of	25	"	"	640.
N. E ¼ of N. E ¼	27	"	"	40.
E. ½ of sec., and E. ½ of N. W. ¼, and E. ½ of S. W. ¼	35	"	"	480.
All of	1	83	27	481.07
All of	3	"	"	538.04
All of	5	"	"	525.24
All of	7	"	"	646.08
All of	9	"	"	640.
All of	11	"	"	640.
All of	13	"	"	640.
All of	15	"	"	640.
All of	17	"	"	640.
All of	21	"	"	640.
All of	23	"	"	640.
All of	25	"	"	640.
All of	27	"	"	640.
E. ½ of	33	"	"	320.
All of	35	"	"	640.
All of	1	"	"	657.85
All of	3	84	27	710.78
All of	5	"	"	706.24
All of	7	"	"	643.84
				14,699.14
142*viii* All of	9	84	27	640.
All of	11	"	"	640.
All of	13	"	"	585.56
All of	15	"	"	640.
All of	17	"	"	640.
All of	19	"	"	643.84
All of	21	"	"	640.
All of	23	"	"	579.25
All of	25	"	"	629.74
All of	27	"	"	635.53
All of	29	"	"	640.
All of	31	"	"	645.20
All of	33	"	"	640.
All of	35	"	"	599.22
All of	1	85	27	627.58
All of	3	"	"	582.14
All of	5	"	"	643.58
All of	7	"	"	638.60
All of	9	"	"	640.
All of	11	"	"	590.64
All of	13	"	"	640.
All of	15	"	"	605.51
All of	17	"	"	640.
All of	19	"	"	644.80
All of	21	"	"	640.
				15,691.19
143*viii* All of	23	85	27	617.57
All of	25	"	"	640.
All of	27	"	"	597.60
All of	29	"	"	640.
All of	31	"	"	645.40
All of	33	"	"	640.
All of	35	"	"	621.60
N. E. ¼ of S. E. ¼ and lots 5, 6, 7, 8, and S. ½ of S. E. ¼	1	86	27	336.39
All of	3	"	"	574.46
All of	5	"	"	627.58
All of	7	"	"	629.69
All of	9	"	"	640.
N. ½ of sec	11	"	"	320.
All of	13	"	"	640.
All of	15	"	"	630.65
All of	17	"	"	640.
All of	19	"	"	632.60
All of	21	"	"	596.88
All of	23	"	"	640.

All of	25	"	"	640.
All of	27	"	"	591. 16
All of	29	"	"	640.
All of	31	"	"	634. 72
All of	33	"	"	640.
All of	35	"	"	640.
				15, 086. 21
144*viii* N. ½ of sec. and E. ½ of S. E. ¼	1	87	27	426. 44
All of	3	"	"	673. 90
All of	5	"	"	681. 60
W. ½ of S. and S. E. ¼	7	"	"	480.
S. ½ of	9	"	"	320.
W. ½ of	11	"	"	320.
All of	17	"	"	611. 25
Lots 1, 2, 5, 6, 7, 8, and E. ½ of N. E. ¼, S. W ¼ of N. W ¼, and W. ½ of S. W. ¼	15	"	"	472. 80
All of	21	"	"	587. 82
All of lots 1, 2, 3, and S. W. ¼ of S. W. ¼	23	"	"	121.
E. ½ of sec	27	"	"	320.
W. ½ of sect	33	"	"	320.
All of	35	"	"	640.
S. W. ¼ of N. W. ¼ and W. ½ of S. W. ¼	3	88	27	120.
All of	5	"	"	701. 30
All of	7	"	"	598. 86
All of	9	"	"	640.
W. ½ of sect., and W. ½ of N. E. ¼, and W. ½ of S. E. ¼	15	"	"	480.
All of	17	"	"	640.
All of	19	"	"	599. 10
All of	21	"	"	640.
S. ½ of sect., and S. ½ of N. E. ¼, and S. ½ of N. W. ¼	23	"	"	480.
All of	25	"	"	640.
All of	27	"	"	640.
				12, 154. 07
145*ix* All of	29	88	27	640.
E. ½ of N. E. ¼, W. ½ of N. W. ¼, and S. W. ¼	31	"	"	285. 23
All of	33	"	"	640.
All of	35	"	"	640.
W. ½ of sect., W. ½ of N. E. ¼, and S. E. ¼	19	89	27	583. 92
S. ½ of S. W. ¼	21	"	"	80.
S. ½ of N. W. ¼, S. W. ¼, and S. E. ¼ of S. E. ¼	27	"	"	360.
All of	29	"	"	640.
All of	31	"	"	663. 72
All of	33	"	"	640.
N. W. ¼ of N. W. ¼, S. ½ of N. W. ¼, S. W. ¼, and W. h. of S. E. ¼	35	"	"	360.
E. ½ of sect., N. frl. ¼ N. W. ¼, and N. E. ¼ of S. W. ¼	1	83	28	352. 25
All of	1	84	28	696. 26
E. ½ of N. E. ¼	11	"	"	80.
E. ½ of sect., and E. ½ N. W. ¼, and E. ½ of S. W. ¼	13	"	"	480.
All of	25	"	"	640.
All of	1	85	"	645. 60
E. ½ of sect	11	"	"	320.
All of	13	"	"	640.
E. ½ of N. E. ¼, E. ½ and S. W. ¼ of S. E. ¼	23	"	"	200.
All of	25	"	"	640.
E. ½ of sect	35	"	"	320.
All of	1	86	28	627. 88
				11, 174, 91
146*x* N. ½ of sect., S. E. ¼ and N. E. ¼ of S. W. ¼	3	86	28	503. 02
All of	11	"	"	640.
All of	13	"	"	640.
E. ½ of N. E. ¼ and E. ½ of S. E. ¼	15	"	"	160.
All of	23	"	"	640.
All of	25	"	"	640.
E. ½ of N. E. ¼ and E. ½ of S. E. ¼	27	"	"	160.
All of	35	"	"	640.
All of	1	87	28	622. 58
N. ½ and S. W. ¼	3	"	"	518. 28
All of	5	"	"	673. 98
All of	7	"	"	621. 98
All of	9	"	"	640.
W. ½ and S. E. ¼	11	"	"	480.
All of	13	"	"	640.
All of	15	"	"	640.
All of	17	"	"	640.
All of	21	"	"	640.
All of	23	"	"	640.
All of	25	"	"	640.
All of	27	"	"	640.
N. ½ of N. E. ¼, S. E. ¼ of N. E. ¼, and N. E. ¼ S. E. ¼	29	"	"	160.

N. E. ¼, N. E. ¼ of N. W. ¼, N. ½ and S. E. ¼ of S. E. ¼	33	"	"	320.
All of	35	"	"	640.
All of	1	88	28	709. 10
All of	3	"	"	719. 64
				14, 608. 58
147xi N. ½ of sec., and lot 4	5	88	28	439. 87
S. E. ¼	7	"	"	160.
All of	9	"	"	640.
S. W. ¼ and S. ½ of N. W. ¼	11	"	"	240.
N. ½ and S. E. ¼	13	"	"	480.
All of	15	"	"	599. 68
N. ½ S. E. ¼ and E. ½ of S. W. ¼	17	"	"	510. 55
W. ½, S. E. ¼, and W. ½ of N. E. ¼	19	"	"	541. 58
N. ½ of sec	21	"	"	320.
All of	23	"	"	606. 68
W. ½ of sec	25	"	"	320.
All of	27	"	"	619. 88
All of	29	"	"	640.
All of	31	"	"	619. 08
S. W. ¼	33	"	"	160.
All of	35	"	"	593. 25
W. ½ sect., S. W. ¼ of N. E. ¼, and W. ½ S. E. ¼	1	89	28	414. 68
All of	3	"	"	589. 02
All of	5	"	"	606. 16
All of fr'ct'l	7	"	"	312. 99
All of	9	"	"	640.
All of	11	"	"	640.
W. ½ of sect., W. ½ of N. E. ¼, W. ½ and S. E. ¼ of S. E. ¼	13	"	"	520.
All of	15	"	"	640.
All of	17	"	"	640.
				12, 492. 77
148xii All of	21	89	28	640.
All of	23	"	"	640.
All of	25	"	"	640.
All of	27	"	"	640.
All of fract'l	29	"	"	558. 21
All of fract'l	31	"	"	1. 41
All of	33	"	"	640.
All of	35	"	"	640.
W. ½ of sect., W. ½ of N. E. ¼, and W. ½ of S. E. ¼	1	90	28	469. 75
All of	3	"	"	642. 18
All of	5	"	"	638. 94
All of	7	"	"	640. 54
All of	9	"	"	640.
All of	11	"	"	640.
W. ½ of N. W. ¼	13	"	"	80.
All of	15	"	"	640.
All of	17	"	"	640.
All of	19	"	"	640. 13
All of	21	"	"	640.
All of	23	"	"	640.
S. W. ¼ of N. W. ¼ and W. ½ of S. W. ¼	25	"	"	120.
All of	27	"	"	640.
All of	29	"	"	640.
All of fract'l	31	"	"	490. 27
All of	33	"	"	640.
				13, 881. 43
All of	35	90	28	640.

149xiii

RECAPITULATION.

Amount from fol. column, 1	7, 142. 21
" " " 2	14, 610. 62
" " " 3	11, 727. 24
" " " 4	14, 699. 14
" " " 5	15, 691. 19
" " " 6	15, 086. 21
" " " 7	12, 154. 07
" " " 8	11. 174. 91
" " " 9	14, 608. 58
" " " 10	12, 492. 77
" " " 11	13, 881. 43
" " " 12	640.
Acres	143, 908. 37

150[xiv] DEPARTMENT OF THE INTERIOR,
Washington, March 10, 1852.

The selections embraced in the within list are hereby approved in accordance with the views expressed in my letter of the 29th October last to the Commissioners of the General Land Office, subject to any right which may have existed at the time the selections were made known to the land officers by the agents of the State, it being expressly understood that this approval conveys to the State no title to any tract or tracts which may have been sold or otherwise disposed of prior to the receipt, by the local land officers, of the letter of the Commissioner of the General Land Office, communicating the decision of Mr. Secretary Walker to the effect that the grant extended above the Raccoon Forks.

ALEX. H. H. STUART, *Secretary.*

151[1] GENERAL LAND OFFICE,
October 31st, 1851.

I, Justin Butterfield, Commissioner of the General Land Office, do hereby certify that the annexed copies of lists marked 1, 2, and 3, and the approval of the Secretary of the Interior, are true and literal exemplifications from the records of this office.

In testimony whereof, I have hereunto subscribed my name, and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[L. S.] J. BUTTERFIELD,
Commissioner of the General Land Office.

EXPLANATIONS.

List No. 1 shows the odd-numbered sections and parts of sections within the limits of the Des Moines River grant above the Raccoon Forks in the townships embraced in said list.

List No. 2 shows the tracts sold within the above-mentioned sections and parts of sections between the 24th August, 1848, and the 16th June, 1849, the period during which the grant was supposed to be limited on the north by the Raccoon Fork.

List No. 3 shows the residuary or vacant tracts after deducting from List No. 1 the sales contained in list No. 2, and is an exhibit, therefore, of the lands accruing to the State in virtue of the grant not interfered with by previous sales.

152[2] LIST No. 1.—*Showing the tracts falling within the limits of the Des Moines grant above the Raccoon Forks of the Des Moines River, so far as the surveys have extended under the decision of the Secretary of the Treasury of 2d March*, 1849, *that said grant extended to the north boundary of the State.*

Parts of section.	S.	T.	R.	Quantity.
S. W. of S. W	5	79	23 W.	40.
All of	7	"	"	669.44
N. ½, N. ½ S. E., and N. ½ of S. W	17	"	"	480.
N. W. of N. E. and N. ½ of N. W	21	"	"	120.
W. ½ of N. W., W. ½ S. W. ¼, and S. E. of S. W	31	80	"	232.
N. E. N. W., N. W. S. W., and lots 1, 2, 3, and 4	3	78	24 W.	223.38
All of	5	"	"	700.74
All of	7	"	"	652.18
Lots No. 1, 2, 3, 4, 5, 6, 7, N. W. N. E., and N. W	9	"	"	494.83
All of	17	"	"	636.47
All of	19	"	"	653.12
N. W. of N. W	21	"	"	40.
N. W. of N. E., N. W. ¼, N. E. S. W., and W. ½ S. W	29	"	"	320.
N. E. ¼, E. ½ N. W., N. W. ¼ N. W., and N. ½ S. E. ¼	31	"	"	363.03

All of	1	79	24 W.	668. 62
All of	3	"	"	673. 52
All of	5	"	"	620. 79
All of	7	"	"	643. 42
All of	9	"	"	640.
All of	11	"	"	640.
All of	13	"	"	640.
All of	15	"	"	640.
All of	17	"	"	594. 20
All of	19	"	"	646. 74

153[3] Part of section.	S.	T.	R.	Quantity.
All of	21	"	"	567. 35
All of	23	"	"	640.
N. W. ¼, W. ½ S. W	25	"	"	240.
All of	27	"	"	606. 10
Forward				14, 085. 98

Past of section.	S.	T.	R.	Quantity.
Amount bro't up				14, 085. 98
All of	29	79	24 W.	640.
All of	31	"	"	661. 28
All of	33	"	"	640.
E. ½ N. E., N. W. ¼ N. E., and lots 1, 2, 3, 4, 5, 6, 7, and 8	35	"	"	512. 05
All of	3	80	"	708. 23
All of	5	"	"	709. 84
All of	7	"	"	665. 18
All of	9	"	"	640.
All of	11	"	"	640.
S. W. N. E., N. W., S. W., and W. ½ S. E	13	"	"	440.
All of	15	"	"	640.
All of	17	"	"	640.
All of	19	"	"	628. 61
All of	21	"	"	640.
All of	23	"	"	640.
All of	25	"	"	640.
All of	27	"	"	640.
All of	29	"	"	615. 55
All of	31	"	"	604. 26
All of	33	"	"	640.
All of	35	"	"	640.
W. ½ S. W. ¼ and S. E. of S. W	7	81	"	127. 32
154[4] All of	19	"	"	642. 08
S. W. S. W	21	"	"	40.
W. ½ S. W	27	"	"	80.
All of	29	"	"	640.
All of	31	"	"	635. 88
All of	33	"	"	640.
All of	1	78	25 W.	698. 16
E. ½, N. W. ¼, and E. ½ of S. W	3	"	"	617. 12
All of	11	"	"	640.
All of	13	"	"	598. 70
N. E., and E. ½ of S. E	23	"	"	240.
Amount forward				32, 910. 58

LIST NO. 1.—Continued.

Part of section.	S.	T.	R.	Quantity.
Amount brought forward				32, 910. 58
N. E. ¼, E. ½ N. W., N. W. N. W., E. ½ S. E., N. W. S. E., and N. E. of S. W	25	78	25 W.	440.
All of	1	79	25	684. 80
All of	3	"	"	681. 70
N. ½ of N. E	5	"	"	99. 91
E. ½, E. ½ N. W., N. W. N. W., and E. ½ of S. W	9	"	"	520.

Part of section.	S.	T.	R.	Quantity.
All of	11	"	"	640.
All of	13	"	"	640.
All of	15	"	"	640.
All of	21	"	"	160.
E. ½ of N. E. and E. ½ S. E.	23	"	"	640.
All of	25	"	"	640.
All of	27	"	"	600.
E. ½, N. W. ¼, E. ½ of S. W., and N. W. S. W	35	"	"	640.
All of	1	80	"	707. 56
All of				
155[5] All of	3	"	"	664. 36
All of	5	"	"	689. 74
All of	7	"	"	652.
All of	9	"	"	640.
All of	11	"	"	599. 63
All of	13	"	"	596. 83
All of	15	"	"	640.
All of	17	"	"	640.
All of	19	"	"	653. 04
All of	21	"	"	640.
All of	23	"	"	640.
All of	25	"	"	640.
All of	27	"	"	640.
All of	29	"	"	640.
All of	31	"	"	280.
N. E., E. ½ N. W., and N. E. of S. E	33	"	"	640.
All of	35	"	"	640.
All of	3	81	25 W.	616. 55
All of	5	"	"	617. 84
All of	7	"	"	674. 16
All of	9	"	"	640.
All of				
				53, 728. 36

Part of section.	S.	T.	R.	Quantity.
Amount brought up				53, 728. 36
All of	11	81	25 W.	640.
All of	13	"	"	640.
All of	15	"	"	640.
All of	17	"	"	640.
All of	19	"	"	676. 38
All of	21	"	"	640.
156[6] All of	23	"	"	640.
All of	25	"	"	640.
All of	27	"	"	640.
All of	29	"	"	600. 76
All of	31	"	"	675. 62
All of	33	"	"	561. 25
All of	35	"	"	640.
All of	5	82	25 W.	635. 18
All of	7	"	"	658. 86
All of	9	"	"	200.
N. ½ N. W., W. ½ of S. W., and S. E. of S. W	17	"	"	640.
All of	19	"	"	663. 92
All of	21	"	"	600.
W. ½ N. E., S. E. N. E., and W. ½, and S. E. ¼	27	"	"	160.
W. ½ N. W. and W. ½ S. W. ¼	29	"	"	640.
All of	31	"	"	663. 10
All of	33	"	"	640.
All of	7	83	"	467. 98
W. ½ of N. E., W. ½, and W. ½ of S. E	19	"	"	653. 08
All of	29	"	"	210.
W. ½ of N. W. ¼ and S. W. ¼	31	"	"	665. 52
All of	1	80	26 W.	698. 18
All of	3	"	"	701. 92
All of	5	"	"	578. 78
E. ½, N. W. ¼, and N. E. of S. W	9	"	"	560.
E. ½, N. W. ¼, and E. ½ of S. W	11	"	"	640.
All of	13	"	"	640.
All of	15	"	"	200.
N. ½, and N. ½ of S. E	23	"	"	40.
N. E. of N. E	25	"	"	280.
N. E., N. E. of N. W., and E. ½ S. E. ¼				
				74, 068. 89

157[7] Part of section.	S.	T.	R.	Quantity.
Amount brought up				74,068.89
All of	1	81	26 W.	609.38
All of	3	"	"	580.56
All of	5	"	"	595.26
All of	7	"	"	612.08
All of	9	"	"	640.
All of	11	"	"	598.73
All of	13	"	"	631.42
All of	15	"	"	640.
All of	17	"	"	640.
All of	19	"	"	612.
All of	21	"	"	640.
All of	23	"	"	640.
All of	25	"	"	625.42
All of	27	"	"	640.
All of	29	"	"	640.
All of	31	"	"	320.
N. E., N. E. N. W., E. ½ S. E., N. W. S. E	33	"	"	640.
All of	35	"	"	640.
All of	1	82	"	637.84
All of	3	"	"	648.
All of	5	"	"	589.23
All of	7	"	"	608.
All of	9	"	"	598.46
All of	11	"	"	640.
All of	13	"	"	640.
All of	15	"	"	597.58
All of	17	"	"	640.
All of	19	"	"	613.24
All of	21	"	"	640.
All of	23	"	"	640.
All of	25	"	"	640.
158[8] All of	27	"	"	590.91
All of	29	"	"	640.
All of	31	"	"	621.60
All of	33	"	"	640.
All of	35	"	"	640.
All of	1	83	"	521.60
All of	3	"	"	525.98
All of	5	"	"	532.
				97,858.18

Part of section.	S.	T.	R.	Quantity.
Amount brought up				97,858.18
All of	7	83	26 W.	587.72
All of	9	"	"	640.
All of	11	"	"	640.
All of	13	"	"	640.
All of	15	"	"	640.
All of	17	"	"	594.30
All of	19	"	"	616.98
All of	21	"	"	631.32
All of	23	"	"	640.
All of	25	"	"	640.
All of	27	"	"	640.
All of	29	"	"	592.36
All of	31	"	"	620.
All of	33	"	"	574.92
All of	35	"	"	640.
Total				107,195.78

GENERAL LAND OFFICE, *December* 26, 1849.

Commissioner.

159[9] LIST No. 2.—*Showing the tracts which have been disposed of subsequently to the 24th of August, 1848, (being the date of the receipt by the land officers of the letter of 7th August, 1848, indicating that the grant extended only to the Raccoon Forks of the Des Moines River,) and previous to the 16th June, 1849, the date of their reception of the letter from this office of 1st June, 1849, communicating the Secretary's decision that said grant extended beyond said point and to the north boundary of the State.*

Part of section.	S.	T.	R.	Quantity.	No. of cert. or bounty land warrant.		Date of entry or location.		Remarks.
N. E. of S. E., E. ½ of N. E., and N. W. of N. E.	17	79	23 W.	160.	W't	7,776	Jan'y	23, 1849	
N. E. of N. W.	3	78	24 W.	58.99	Cert.	1,667	Oct.	30, 1848	
N. W. of S. W. and lot No. 4.	"	"	"	77.65	"	1,667	"	" "	
Lots No. 1, 2, and 3	"	"	"	86.74	"	1 604	"	16, "	
E. ½ of N. E. fr'l ¼	5	"	"	95.37	"	1,605	"	" "	
W. ½ of N. E. and E. ½ of N. W. fr'l ¼.	"	"	"	190.37	W't	9,352	"	30, "	
W. ½ of N. W. fr'l	"	"	"	95.	Cert.	1,606	"	16, "	
S. W. ¼	"	"	"	160.	W't	18,752	"	30, "	
S. E. ¼	"	"	"	160.	"	17,644	"	" "	
N. E. ¼	7	"	"	160.	"	3,182	"	" "	
E. ½ of N. W. ¼	"	"	"	80.	Cert.	1,827	Dec.	16, "	
W. ½ of N. W. fr'l ¼, N. W. of S. W., and N. E. of S. W.	"	"	"	170.89	W't	29,348	Feb.	1, 1849	
S. E. of S. W	"	"	"	40.	C.	1,668	Oct.	30, 1848	
S. E. fr'l ¼	"	"	"	158.28	W.	6,064	"	" "	
S. W. fr'l ¼ of S. W. ¼	"	"	"	43.01	Decl't'y statement filed Mar. 28, 1849.				
Lot No. 1, and N. W. of N. E.	9	"	"	75.50	C.	1,192½	May	12, 1848	
Lots No. 2 and 3	"	"	"	83.68	"	1,608	Oct.	16, 1848	
Lot No. 4	"	"	"	52.85	"	1,830	Dec.	18, "	
N. W. ¼	9	"	"	160.	W't	26,663	Oct.	30, "	
Lot No. 5	"	"	"	10.10	C.	2,027	May	3, 1849	
Lot No. 7	"	"	"	38.95	W't	1,327	Dec.	4, 1848	
160[10] N. E. ¼	17	"	"	160.	"	22,655	"	6, "	
N. E. of N. W., S. W. of N. W., and lot No. 2.	"	"	"	116.	"	20,835	Nov.	18, "	
S. E. of N. W	"	"	"	40.	Decl. statement filed May 3d, 1849.				
S. ½ of N. W. and N. ½ of S. W. ¼.	1	79	"	160.	W't	13,055	June	12, 1849	
N. E. fr'l ¼	3	"	"	176.73	"	20,352	Oct.	30, 1848	
N. W. of N. W. fr'l ¼	"	"	"	48.40	"	22,265	"	" "	
N. ½ of S. W. and N. ½ of S. E.	"	"	"	160.	"	18,984	"	" "	
S. ½ of S. W. and S. ½ of S. E.	"	"	"	160.	"	15,434	"	" "	
E. ½ of N. W. ¼	"	"	"	88.39	"	47,879	May	18, 1849	
Lot No. 3, and E. ½ of N. E. fr'l ¼.	5	"	"	143.61	"	14,735	Oct.	30, 1848	
N. W. of N. E. fr'l ¼ and N. E. of N. W.	"	"	"	95.05	"	13,224	"	" "	
Lot No. 4	"	"	"	35.88	"	57,240	June	11, 1849	
Forward				3,571.44					

LIST No. 2—Continued.

Part of section.	Sec.	T.	R.	Quantity.	No. of certif. & B. L. warrant.		Date of entry or location.		
Amount bro't over				3,571.44					
Lots No. 1, 2, and E ½ of S. E.	5	79	24 W.	157.80	W't	57,241	June	11, 1849	
S. E. of N. E	"	"	"	40.	"	32,818	March	12, "	
N. ½ of S. E	"	"	"	80.	"	33,462	June	4, "	
N. E. ¼	9	"	"	160.	"	30,128	Oct.	30, 1848	
N. W ¼	"	"	"	160.	"	21,816	"	" "	
W. ½ of S. W. ¼	"	"	"	80.	"	3,884	"	" "	
E. ½ of S. W. and W. ½ of S. E.	"	"	"	160.	"	31,113	Feb'y	12, 1849	
E ½ of S. E	"	"	"	80.	"	20,597	"	" "	
E. ½ of N. E	11	"	"	80.	"	20,390	Oct.	30, 1848	
E. ½ of N. W	"	"	"	80.	"	46,651	April	16, 1849	

W. ½ of N. W	"	"	"	80.	"	12, 663	Oct.	30, 1848
N. E of S. W	"	"	"	40.	"	46, 651	April	16, 1849
E. ½ of S. E	"	"	"	80.	"	43, 986	May	30, "
W. ½ of N. W	13	"	"	80.	"	44, 121	"	" "
Lot No. 4	17	"	"	54. 32	C.	1, 610	Oct.	16, 1848
Lots 5 and 6, and W. ½ of N. W.	"	"	"	171. 30	W't	26, 748	"	30, "
161[11] " 1, 2, 3, and S. E. ¼ of N. E.	"	"	"	160. 33	"	31, 366	Feb'y	12, 1849
Lot No. 2	21	"	"	50. 15	C.	1, 611	Oct.	16, 1848
Lots 4 and 5 and E. ½ of S. W. ¼	"	"	"	172. 50	W.	3, 577	"	30, "
Lots 6, 7, and 8	"	"	"	155. 85	"	24, 165	"	" "
Lot No. 1	"	"	"	48. 55	C.	1, 611	"	16, "
N. ½ of N. E. and N. ½ of N. W.	27	"	"	160.	W.	24, 141	"	30, "
Lots No. 2 and 3	"	"	"	110. 70	"	28, 332	"	" "
" " 4 and 5	"	"	"	103. 75	C.	1, 612	"	16, "
N. ½ of S. E. ¼ and S. ½ of N. E.	"	"	"	160.	W.	28, 349	"	30, "
Lot No. 1, and S. E. ¼ of N. E.	"	"	"	71. 65	"	26, 659	"	" "
S. ½ of N. E. and S. ½ of N. W.	29	"	"	160.	"	27, 362	April	9, 1849
S. W. ¼	"	"	"	160.	"	23, 720	Oct.	30, 1848
S. E. ¼	"	"	"	160.	"	24, 213	"	" "
E. ½ of N. E. ¼ and E. ½ of S. E. ¼	31	"	"	160.	"	19, 002	May	18, 1849
W. ½ of N. E. and W. ½ of S. E.	"	"	"	160.	"	32, 931	June	4, "
S. W. fr'l ¼	"	"	"	171. 32	"	1, 114	April	30, "
N. ½ of N. E	33	"	"	80.	"	26, 669	Oct.	30, 1848
N. W. ¼	"	"	"	160.	"	30, 371	Dec.	16, "
S. W. ¼	"	"	"	160.	C.	1, 613	Oct.	" "
S. ½ of N. E. and N. ½ of S. E.	"	"	"	160.	W.	13, 086	Nov.	4, "
S. W. ¼ of S. E	"	"	"	40.	C.	1, 958	March	20, 1849
S. E. ¼ of S. E	"	"	"	40.	W.	26, 658	Oct.	30, 1848
Lots 3, 4, and N. ½ of N. E.	35	"	"	161. 60	"	27, 974	"	" "
Lots No. 6, 7, and 8	"	"	"	185. 10	C.	1, 614	"	16, "
				8, 306. 36				

List No. 2—Continued.

Part of section.	Sec.	T.	R.	Quantity.	No. of certif. & B. L. warrant.		Date of entry or location.		
Amount brought up	.....	.....	.....	8, 306. 36					
Lot No. 5	35	79 N.	24 W	26. 35	W't	26, 659	Oct.	30, 1848	
Lot No. 1 and 2	"	"	"	99.	Cer.	1, 762	Nov.	18, "	
S. E. of N. E	"	"	"	40.	W't	26, 660	Oct.	30, "	
All of	5	80	"	709. 84	Univ'y	app'd	Feb.	26, 1849	
162[12] N. E	7	"	"	160.	Decl. st'm't fil'd		May	28, "	
N. ½ of N. W. ¼	"	"	"	85. 98	School land ap		p'd Apr. 6,	"	Act 4 Sept., '41.
S. ½ of N. W. ¼ and N. ½ of S. W. fr'l ¼	"	"	"	172. 59	W.	40, 398	April	16, "	
S. E. ¼	"	"	"	160.	"	20, 899	Oct.	31, 1848	
S. W. ¼	15	"	"	160.	"	35, 806	Mar.	20, 1849	
N. W. ¼	17	"	"	160.	"	50, 206	May	20, "	
S. W. ¼	"	"	"	160.	"	33, 493	Jan.	23, "	
S. E. ¼	"	"	"	160.	"	20, 009	Apr.	16, "	
E. ½ of N. W. ¼, N. W. of N. W. ¼ and lot 3	19	"	"	157. 03	"	6, 657	Nov.	18, 1848	
N. W. of N. E	"	"	"	40.	"	8, 052	"	" "	
S. W. of N. E	"	"	"	40.	C.	1, 789	"	27, "	
Lots No. 1, 2, 4, and 5	"	"	"	154. 49	W't	29, 928	May	21, 1849	
Lots No. 6 and 7, and N. ½ of S. E.	"	"	"	157. 09	"	47, 877	"	18, "	
N. E. ¼	21	"	"	160.	"	24, 139	Oct.	30, 1848	
N. W	"	"	"	160.	"	14, 867	"	" "	
S. W. ¼	"	"	"	160.	"	28, 478	"	" "	
N. ½ of S. E	"	"	"	80.	"	29, 358	"	" "	
S. ½ of S. E	"	"	"	80.	"	30, 560	"	" "	
S. ½ of N. E. and N. W. of N. E	27	"	"	120.	"	38, 169	May	30, 1849	
N. ½ of S. W. and S. ½ of N. W.	"	"	"	160.	"	20, 817	Oct.	30, 1848	
E. ½ of N. E	29	"	"	80.	"	11, 407	Dec.	4, "	

W. ½ of N. E. and E. ½ of N. W.	"	"	"	160.	"	20, 538	Oct. 31, "	
Lots 3, 4, 5, N. E. S. W, and N. W. of S. E.	"	"	"	175.	"	29, 085	M'ch 5, 1849	
Lot No. 6	"	"	"	57. 80	C.	1, 616	Oct. 16, 1848	
" " 2	"	"	"	13. 34	W.	19, 037	Dec. 4, "	
" " 1	31	"	"	34. 44	"	19, 037	" " "	
" " 7	"	"	"	42. 39	"	57, 240	June 11, 1849	
N. E. ¼	33	"	"	160.	"	26, 747	Oct. 30, 1848	
S. W. ¼	33	"	"	160.	"	30, 456	" " "	
E. ½ of S. E	"	"	"	80.	"	22, 353	" " "	
W. ½ of N. E	35	"	"	80.	"	38, 167	May 30, 1849	
N. W. ¼	"	"	"	160.	"	5, 497	M'ch 20, "	
S. W. ¼	"	"	"	160.	"	37, 809	" " "	
S. E	"	"	"	160.	"	41, 652	May 3, "	
163[13] N. ½	31	81	"	318. 49	Univ'y	app'd	Feb. 26, "	Act J'ly, '40.
S. W. fr'l ¼	"	"	"	157. 39	W't	21, 157	Jan'y 23, "	
Forward				13, 867. 58				

STATEMENT—Continued.

Part of section.	S.	T.	R.	Quantity.	No. of cert. or warrants.		Date of entry, &c.	Remarks.
Brought forward				13, 867. 58				
N. E. of N. E	1	78	25 W.	54. 51	W't	35, 763	Jan'y 23, 1849	
N. E. N. W., N. W. of N. E., and S. W. of N. W.	11	"	"	120.	Decl. st'm't fil'd		Apr. 16, 1849	
S. W	"	"	"	160.	W't	26, 183	Jan'y 23, "	
S. E	"	"	"	160.	"	22, 200	April 16, "	
Lots Nos. 1 and 2	13	"	"	80.	"	4, 552	Oct. 30, 1848	
Lots 3 and 4, and N. W. of N. W.	"	"	"	124. 30	"	4, 730	Nov. 23, "	
Lot No. 5	"	"	"	42. 05	"	30, 488	Nov. 13, "	
S. W. of S. W	"	"	"	40.	"	33, 045	" " "	
S. E. of S. W. and S. W. of S. E.	"	"	"	80.	"	25, 683	Dec. 4, "	
N. E	23	"	"	160.	"	46, 006	April 16, 1849	
E. ½ of N. E., S. W of N. E., and S. E. of N. W.	25	"	"	160.	"	26, 469	May 16, "	
S. W	1	79	25 W.	160.	"	38, 059	April 30, "	
S. E	"	"	"	160.	"	38, 125	" " "	
S. ½ of N. E., N. W. of N. E., and N. E. of N. W.	13	"	"	160.	"	38, 165	May 30, "	
S. ½ of N. W. and N. W. of N. W.	"	"	"	120.	"	2, 163	April 19, 1849	
W. ½ of S. W	"	"	"	80.	"	30, 186	Nov. 27, 1848	
S. E. ¼	"	"	"	160.	"	25, 713	Dec. 4, "	
N. E. of N. E	23	"	"	40.	"	30, 186	Nov. 27, "	
E. ½ of N. E. and E. ½ of S. E.	25	"	"	160.	"	3, 621	Oct. 30, "	
N. E. fr. ¼ of N. E	1	80	"	56. 78	"	10, 268	Jan'y 23, 1849	
N. W. of N. E. and E. ½ of N. W.	"	"	"	153. 78	"	26, 503	Mar. 20, "	
W. ½ fr. of N. W. and N. ½ of S. W	"	"	"	177.	"	30, 192	Nov. 13, 1848	
S. ½ of S. W	"	"	"	80.	"	24, 836	Jan'y 23, 1849	
S. E	"	"	"	160.	"	27, 415	" " "	
N. fr'l ½ of N. E. and N. E. of N. W.	3	"	"	167. 15	"	36, 371	" " "	
N. E. of N. E	11	"	"	40.	C.	2, 128	Jan'y 12, "	
W. ½ of N. E., S. E. of N. E., and N. E. of S. E.	"	"	"	160.	W't	28, 871	Mar. 3, "	
164[14] N. W. ¼	"	"	"	160.	"	24, 545	May 21, "	
E. ½ of N. E	13	"	"	80.	"	39, 898	" 16, "	
Lots 5 and 6, and S. W of N. E.	"	"	"	110. 80	"	19, 728	Mar. 20, "	
Lots 1 and 2	"	"	"	105. 85	"	15, 273	" " "	
E. ½ of S. E. and N. W. of S. E.	"	"	"	120.	"	45, 827	April 16, "	
E. ½ of S. E. and N. W. of S. E.	29	"	"	120.	"	57, 244	June 11, "	
S. W. of N. W., and W. ½ of S. W. fr'l ¼.	19	81	"	147. 21	"	21, 408	May 21, "	
N. W. ¼	21	"	"	160.	Decl. statement		filed March 21,	1849.
S. W. ¼	"	"	"	160.	W't	24, 292	Mar. 20, "	
Forward				18, 247. 81				

STATEMENT—Continued.

Part of section.	S.	T.	R.	Quantity.	No. of cert. or bounty land warrant.	Date.	Remarks.
Brought up				18,207.81			
W. ½ of N. E. and E. ½ of N. W.	27	81	25 W.	160.	W't 30,139	Oct. 30, 1848	
S. W. ¼	"	"	"	160.	" 23,433	May 21, 1849	
S. E.	"	"	"	160.	" 21,407	" " "	
Lot No. 2, W. ½ of S. W., and S. E. of S. W.	29	"	"	162.73	" 25,731	Dec. 4, 1848	
Lot No. 1	"	"	"	39.34	C. 3,980	" 18, "	
Lots 3 and 4, and S. E. of S. E.	"	"	"	130.32	W. 45,853		
Lots 1, 7, 8, 9, and 10	33	"	"	149.66	" 21,416	May 21, 1849	
Lots 11, 12, 13, and N. E. of S. E.	"	"	"	159.70	" 25,610	" " "	
N. W. ¼	35	"	"	160.	" 29,243	June 13, "	
S. W.	"	"	"	160.	" 39,025	Oct. 30, 1848	
E. ½ of N. E.	"	"	"	80.	" 38,162	May 30, 1849	
W. ½ of N. E. and N. ½ of S. E.	"	"	"	160.	114	June 13, "	
E. ½ of S. E.	"	"	"	80.	" 30,125	Oct. 30, "	
All of	19	82	"	663.	University.	Feb'y 21, "	Act 20 J'ly, '40.
S. E. of S. E.	21	"	"	40.	W't 9,999	Dec. 18, 1848	
N. W. of N. W.	27	"	"	40.	" 9,999	" " "	
N. E. fr'l ½	1	81	26 W.	144.04	" 3,923	April 16, 1849	
N. W. fr'l ½	1	"	"	145.34	" 30,477	Dec. 18, 1848	
S. W.	"	"	"	160.	" 54,399	June 4, 1849	
165/100 S. ½ of S. W.	3	"	"	80.	" 7,382	Nov. 13, 1848	
Lots 1, 2, and 3, and S. E. ¼ of N. W.	11	"	"	171.20	" 3,636	March 28, 1849	
S. W. of N. W., lot 4, and N. W. of S. W.	"	"	"	125.49	" 31,115	" " "	
W. ½ of S. W., and lot No. 2.	13	"	"	62.07	" 24,427	Dec. 18, 1848	
E. ½ of S. W. and W. ½ of S. E.	"	"	"	160.	" 4,139	April 30, 1849	
S. W.	23	"	"	160.	" 26,632	April 16, "	
W. ½ of N. W.	25	"	"	80.	" 19,227	May 3, "	
N. W. fr'l ¼	1	82	"	159.88	" 26,661	Oct. 30, 1848	
S. ½ of N. E., N. E. of S. W., and N. W. of S. E.	"	"	"	160.	" 30,484	Jan. 23, 1849	
Lots 1, 2, 3, and N. E. of S. E.	5	"	"	140.33	" 25,574	Feb. 26, "	
S. W. ¼	11	"	"	160.	" 36,711	Jan. 23, "	
S. W. ¼	23	"	"	160.	" 42,089	April 16, "	
All of	25	"	"	640.	University.	Feb. 26, "	Act 20 J'ly, '40.
Lots 8 and 9, and S. W. of S. W.	27	"	"	110.55	W't 9,931	Nov. 18, 1848	
N. W.	35	"	"	160.	" 32,344	May 8, 1849	
N. E.	"	"	"	160.	" 35,869	Mar. 5, "	
E. ½ of N. E. ¼	3	83	"	51,12	" 304	Nov. 13, 1848	
Forward				23,943.50			

STATEMENT—Continued.

Part of section.	Sec.	T.	R.	Quantity.	No. of certif. & B. L. warrant.	Date of entry or location.	
Brought forward				23,943.50			
S. E. ¼	3	83	26 W.	160.	W't 15,490	April 16, 1849	
N. W. fr'l ¼ and W. ½ of N. E. fr'l ¼	5	"	"	159.	" 50,617	June 11, "	
Lots 3 and 4, and E. ½ of N. E.	7	"	"	167.17	" 13,117	May 16, "	
Lots 5, 6, W. frl ½ of N. W. ¼, and N. W. ¼ of S. W. ¼.	"	"	"	163.23	" 18,645	Feb. 26, "	
Lots 7 and 8, and S. W. of S. W.	"	"	"	93.13	" 50,597	June 11, "	
E. ½ of S. E. and lot No. 1.	"	"	"	121.04	" 26,300	" 4, "	
N. ½ of S. W. and S. W. of N. W.	11	"	"	120.	" 28,350	Oct. 30, 1848	
N. E. ¼	15	"	"	160.	" 34,172	June 4, 1849	
E. ½ of S. E.	"	"	"	80.	" 29,982	Oct. 30, 1848	
E. ½ of S. W. ¼ and W. ½ of S. E.	"	"	"	160.	" 29,467	" " "	
Lot 5, and S. W. of S. W.	17	"	"	80.80	" 23,174	Feb. 1, 1849	
S. ½ of S. E.	35	"	"	80.	" 32,898	" 26, "	
Total				25,487.87			

166[16] LIST No. 3.—*Showing the vacant tracts, within the odd-numbered sections, within five miles on either side of the Des Moines River.*

Description.	S.	T.	R.	Acres.
S. W. of S. W	5	79	23 W	40.
All of	7	"	"	669. 44
N. W. ¼, S. W. of N. E., N. W. of S. E., and N. ½ of S. W	17	"	"	320.
N. W. of N. E. and N. ½ of N. W	21	"	"	120.
W. ½ of N. W., W. ½ of S. W. ¼, and S. E. ¼ of S. W	31	80	"	232.
Lot No. 6	9	78	24	43. 75
S. ½ and fr. on left bank	17	"	"	320. 47
All of	19	"	"	653. 12
N. W. of N. W	21	"	"	40.
N. W. of N. E., N. W., N. E. of S. W., and W. ½ S. W	29	"	"	320.
N. E., E. ½ of N. W., N. W. of S. W., and N. ½ of S. E	31	"	"	363. 08
N. ½ of S. W., S. ½ of S. W., and E. ½	1	79	"	508. 62
S. W. of N. W	3	"	"	40.
Lots No. 5, 6, 7, and W. ½ of S. W	5	"	"	188. 45
N. ½ of N. E. and S. W. ¼ of N. E. and S. ½ of S. E. and W. ½	7	"	"	523. 42
W. ½ of N. E., W. ½ of S. E., W. ½ of S. W., and S. E. of S. W	11	"	"	280.
E. ½, S. W., and E. ½ of N. W. ¼	13	"	"	560.
All of	15	"	"	640.
Lots Nos. 7, 8, and 9, W. ½ of S. W., and S. E. of S. W	17	"	"	208. 25
All of	19	"	"	646. 74
Lot No. 3, W. ½ of S. W., and S. W. of N. W	21	"	"	140. 30
All of	23	"	"	640.
N. W. of W. ½ of S. W	25	"	"	240.
N. ½ of N. E. and N. ½ of N. W	29	"	"	160.
Total of 1st column				7, 897. 64
167[17] (2d column.) N. W. fr'l ¼	31	79	24 W	169. 96
All of	3	80	"	708. 23
S. ½ of S. W. ¼	7	"	"	86. 61
All of	9	"	"	640.
All of	11	"	"	640.
S. W. ¼ of N. E., N. W. ¼, and W. ½ of S. E	13	"	"	440.
N. ½ of S. E	15	"	"	480.
N. E	17	"	"	160.
E. ½ of N. E	19	"	"	80.
All of	23	80	24 W	640.
All of	25	"	"	640.
N. E. of N. E., S. ½ of S. W., N. ½ of N. W., and S. E. ¼	27	"	"	360.
E. ½ of S. E., S. W. of S. E., and lot No. 1	29	"	"	129. 41
Lots 2, 3, 4, 5, 6, W. ½ of N. W. fr'l ½				
N. E. h'f N. W. and S. W. fr'l ¼	31	"	"	527. 43
N. W. and W. ½ of S. E	33	"	"	240.
E. ½ of N. E	35	"	"	80.
W. ½ of S. W., and S. E. of S. W	7	81	"	127. 32
All of	19	"	"	642. 98
S. W. of S. W	21	"	"	40.
W. ½ of S. W	27	"	"	80.
All of	29	"	"	640.
S. E	31	"	"	160.
All of	33	"	"	640.
S. ½ of N. E., N. W. of N. E., W. ½, and S. E. ¼	1	78	25	643. 65
E. ½, N. W. ¼, and E. ½ of S. W	3	"	"	617. 12
N. W. ¼ of N. W. ¼, S. E. ¼ of N. W. ¼, E. ½ of N. E., and S. W. ¼ of N. E	11	"	"	200.
S. E. of S. E. and N. E. ¼ of S. E	13	"	"	80.
Total of 2d column				9, 891. 81
(3d column.) Lots No. 6, 7, and 8	13	"	"	151. 55
E. ½ of S. E	23	"	"	80.
N. W. of N. E., N. E. of N. W., N. W. of N. W., E. ½ of S. E., N. W. of S. E.	25	"	"	280.
168[18] N. ½	1	79	"	364. 80
All of	3	"	"	681. 70
N. ½ of N. E	5	"	"	79. 91
E. ½, E. ½ of N. W., N. W. of N. W., and E. ½ of S. W	9	"	"	520.
All of	11	"	"	640.
N. E. of N. E. and E. ½ of S. W	13	"	"	120.
All of	15	"	"	640.
E. ½ of N. E. and E. ½ of S. E	21	"	"	160.
W. ½ of N. E., S. E. of N. E., and W. ½ and S. E	23	79	25 W	600.
All of	25	"	"	640.
E. ½, N. W. ¼, E. ½ of S. W. ¼, and N. W. of S. W	27	"	"	600.
W. ½ of N. E., W. ½ of S. E., and W. ½	35	"	"	480.
S. ½ of N. E	1	80	"	80.
S. ½ of N. E., E. ½ of S. E., and lots No. 1, 2, 3, 4, 5, 6, and 7	3	"	"	497. 21
All of	5	"	"	689. 74
All of	7	"	"	652.
All of	9	"	"	640.
Lots No. 1, 2, 3, 4, 5, 6, and 7	11	"	"	239. 63

Lots 3, 4, 7, and 8	13	"	"	180.18
All of	15	"	"	640.
All of	17	"	"	640.
All of	19	"	"	753.04
All of	21	"	"	640.
All of	23	"	"	640.
All of	25	"	"	640.
All of	27	"	"	640.
All of	29	"	"	520.
S. W. of S. E., N. E. ¼, and W. ½	31	"	"	280.
N. E. ¼, E. ½ N. W. ¼, and N. E. of S. E	33	"	"	640.
All of	35	"	"	640.
All of	3	81	"	616.55
All of	5	"	"	617.84
Total of 3d column				16,844.15
169[19] (4th column.) All of	7	81	25	674.16
All of	9	"	"	640.
All of	11	"	"	640.
All of	13	"	"	640.
All of	15	"	"	640.
All of	17	"	"	640.
E. ½, E. ½ of N. W., N. W. of N. W., and E. ½ of S. W. ¼	19	"	"	529.17
E. ½	21	"	"	320.
All of	23	"	"	640.
All of	25	"	"	640.
E. ½ of N. E. and W. ½ of N. W	27	81	25	160.
Lots No. 5, 6, 7, 8, and N. ½ of N. E	29	"	"	268.37
All of	31	"	"	675.62
Lots 2, 3, 4, 5, 6, and S. W. ¼ of S. W. ¼	33	"	"	251.91
All of	5	82	"	635.18
All of	7	"	"	658.86
W. ½ of N. W., W. ½ of S. W., and S. E. of S. W	9	"	"	200.
All of	17	"	"	640.
W. ½ of N. E., S. E. of N. E., W. ½, W. ½ of S. E., and N. E. of S. E. ¼	21	"	"	560.
S. W. of N. W. and W. ½ of S. W	27	"	"	120.
All of	29	"	"	640.
All of	31	"	"	663.10
All of	33	"	"	640.
W. ½ of N. E., W. ½, and W. ½ of S. E	7	83	"	467.98
All of	19	"	"	653.08
W. ½ of N. W. and S. W	29	"	"	240.
All of	31	"	"	665.52
All of	1	80	26	698.18
All of	3	"	"	701.92
E. ½, N. W. ¼, and N. E. of S. W	5	"	"	578.78
E. ½, N. W., and E. ½ of S. W	9	"	"	560.
All of	11	"	"	640.
All of	13	"	"	640.
170[20] N. ½ and N. ½ of S. E	15	"	"	400.
N. E. of N. E	23	"	"	40.
N. E. ¼, N. E. of N. W., and E. ½ of S. E	25	"	"	280.
Total of 4th column				18,681.83
(5th column.) S. E. ¼	1	81	26	160.
N. ½ of S. W., S. ½ of N. W. fr. ¼, and lots 1, 2, 3, 4, 5, 6, and S. W. of S. E	3	"	"	500.56
All of	5	"	"	595.26
All of	7	"	"	612.08
All of	9	"	"	640.
S. W. of S. W., and lots 5, 6, 7, 8, and 9	11	"	"	302.04
Lot 1, E. ½ of S. E., and N. ½	13	"	"	409.35
All of	15	"	"	640.
All of	17	"	"	640.
All of	19	81	26 W	612.
All of	21	"	"	640.
N. ½ and S. E. ¼	23	"	"	480.
S. ½, S. E. ¼ of N. W. ¼, and lots 1, 2, 3, and 4	25	"	"	545.42
All of	27	"	"	640.
All of	29	"	"	640.
N. E. ¼, N. E. ¼ of N. W. ¼, E. ½ of S. E. ¼, and N. W. ¼ of S. E. ¼	31	"	"	320.
All of	33	"	"	640.
All of	35	"	"	640.
N. fr'l ½ of N. E. fr'l ¼, E. ½ of S. E. ¼, S. W. of S. E., W. ½ of S. W., and S. E. of S. W. ¼	1	82	"	317.96
All of	3	"	"	648.
N. W. fr'l ¼ of N. E. ¼, W. fr'l ½ of N. W. ¼, N. E. frl. ¼ of N. W. ¼, W. ½ of S. W. ¼, S. E. ¼ of S. W. ¼, and lots No. 4, 5, 6, 7, and 8	5	"	"	448.90
All of	7	"	"	608.
All of	9	"	"	598.46
E. ½ of N. W. ¼	11	"	"	480.
All of	13	"	"	640.
All of	15	"	"	597.58
All of	17	"	"	640.
171[21] All of	19	"	"	613.24
All of	21	"	"	640.

E. ½ of N. W. ¼	23	"	"	480.
W. ¼ of N. W. ¼, N. E. ¼ of N. W. ¼, N. W. of S. W. ¼, E. ½ of S. E. ¼, and lots No. 1, 2, 3, 4, 5, 6, & 7.	27	"	"	480. 36
All of	29	"	"	640.
Total of 5th column				17, 489. 21
(6th column.) All of	31	81	26 W	621. 60
All of	33	"	"	640.
S. ½	35	"	"	640.
All of	1	83	"	521. 60
W. fr'l ½ of N. E. ¼ and W. frl. ½ of	3	"	"	314. 86
E. fr'l ½ of N. E. and S. ½	5	"	"	373.
Lot No. 2	7	"	"	43. 15
All of	9	"	"	640.
E. ½, E. ½ of N. W. ¼, N. W. ¼ of N. W. ¼, and S. ½ of S. W. ¼	11	"	"	520.
All of	13	"	"	640.
W. ½ of S. W. ¼ and N. W. ¼	15	"	"	240.
N. E. ¼, N. ½ of N. W. ¼, and lots No. 1, 2, 3, 4, 6, 7, and 8	17	83	26 W	513. 50
All of	19	"	"	616. 98
All of	21	"	"	631. 32
All of	23	"	"	640.
All of	25	"	"	640.
All of	27	"	"	640.
All of	29	"	"	592. 36
All of	31	"	"	620.
All of	33	"	"	574. 92
W. ½, N. E. ¼ and N. ½ of S. E. ¼	35	"	"	560.
Total of 6th column				10, 903. 29

172[22] RECAPITULATION.

List No. 3.	First column	7, 897. 64
" "	Second do.	9, 891. 81
" "	Third do.	16, 844. 15
" "	Fourth do.	18, 681. 83
" "	Fifth do.	17, 489. 21
" "	Sixth do.	10, 903. 29
Total acres		81, 707. 29

DEPARTMENT OF THE INTERIOR, *October 30th*, 1851.

The selections embraced in the within list No. 3 are hereby approved in accordance with the views expressed in my letter of the 29th inst. to the Commissioner of the General Land Office subject to any rights which may have existed at the time the selections were made known to the land officers by the agents of the State, it being expressly understood that this approval conveys to the State no title to any tract or tracts which may have been sold or otherwise disposed of prior to the receipt by the local land officers of the letter of the Commissioner of the General Land Office communicating the decision of Mr. Secretary Walker to the effect that the grant extended above the Raccoon Fork.

(Signed) ALEX. H. H. STUART, *Secretary.*

173 DES MOINES, IOWA, *June* 26, 1868.

STATE OF IOWA,
Office Register of the State Land Office:

I, C. C. Carpenter, register of the State land office of the State of Iowa, hereby certify that the foregoing are true and correct copies of the original lists furnished the State of Iowa by the Commissioner of the General Land Office, and now remaining on file in my office.

In testimony whereof, I have hereunto set my hand and affixed the seal of my office date above written.

[SEAL.] C. C. CARPENTER, *Register*,
By JOHN M. DAVIS, *Deputy.*

174 *Pl'ff's Exhibit G.—S. Sibley, Com.*

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Oct. 20th, 1868.

I, Joseph S. Wilson, Commissioner of the General Land Office, do hereby certify that the annexed copies are a true and literal exemplification of the originals on file in this office.

In testimony whereof, I have hereunto subscribed my name and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.]

JOE. S. WILSON,
Commissioner of the General Land Office.

175 GENERAL LAND OFFICE, *January 7th*, 1854.

SIR: I enclose a copy of a list of the vacant lands in the odd-numbered sections above the Raccoon Forks, and within five miles of the Des Moines River, so far as the surveys have progressed, falling to the State of Iowa under the act of 8th August, 1846, as construed by the Secretary of the Treasury in his letter of 2nd March, 1849, and of the Secretary of the Interior of the 29th October, 1851, approved by the Secretary of the Interior on the 17th ultimo.

The quality embraced by the list is 33,142.43 acres.

You will please have them entered upon your tract and plat books.

I also enclose a copy of a list of lands falling within the Des Moines River grant, under act of 8th August, 1846, selected by the State under the 8th section of the act of 4th September, 1841, on the 20th July, 1850, and erroneously approved on the 20th February, 1851, previous to the adjustment of the grant for those townships, and before it was known that they belonged to the State under the Des Moines River grant.

This list was approved on the 30th ult., and embraced 12,813.51 acres.

You will please note these selections upon your plat and tract books, as approved under act of 8th August, 1846, and cancel the approval of the same as selections under the act of 4th September, 1841.

I am, very respectfully, your obedient servant,

JOHN WILSON, *Commissioner.*

REGISTER OF THE LAND OFFICE, *Fort Des Moines, Iowa.*

GENERAL LAND OFFICE, *January 6th*, 1854.

SIR: Herewith I enclose a certified copy of a list of tracts falling to the State of Iowa under the act of the 8th August, 1846, above the Raccoon Forks, so called, so far as the surveys have progressed, and not heretofore approved, approved by the Secretary of the Interior on the 17th ultimo, amounting in the aggregate to thirty-three thousand one hundred and forty-two acres and forty-three-hundredths of an acre. (33,142 43-100).

I am, very respectfully, your obedient servant,

JOHN WILSON, *Commissioner.*

GEO. GILLASPY, Esq.,
Register of State Land Office, Ottumwa, Iowa.

176 *Pl'ff's Exhibit H.—S. Sibley, Com.*

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Oct. 20th, 1868.

I, Joseph S. Wilson, Commissioner of the General Land Office, do hereby certify that the annexed copies are a true and literal exemplification of the originals on file in this office.

In testimony whereof, I have hereunto subscribed my name and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.] JOE. S. WILSON,
Commissioner of the General Land Office.

177 DEPARTMENT OF THE INTERIOR,
Washington, Nov'r 3d, 1860.

SIR: I have the honor to acknowledge the receipt of your letter of the 22d ultimo, in which you urge the postponement of the public offering of the government lands in Iowa which have been surveyed for many years but have not been brought into market on account of the claim of the State of Iowa, preferred under the grant of 8th August, 1846, "to aid in the improvement of the navigation of the Des Moines River." You state that some of these lands were selected and approved as school lands, and the State proceeded to sell & did sell some 2,000 or 3,000 acres to actual settlers. On reference of your letter to the Commissioner of the General Land Office for information on this point, he reports, under date of the 29 ultimo, (copy enclosed,) that no evidence is found in that office of the selections of any portion of these lands as part of the 500,000 acres to which the State was entitled under the act of Sept. 4th, 1841. Now, if any of them were in fact selected
178 by the State and approved to her under any law of Congress, before she claimed them under the Des Moines grant, it is probable that the evidence may be found in the archives of the State; and if you will forward lists of such tracts, with a specification of the dates of selection and approval, and of the acts of Congress under which the selections were made, I will immediately examine into the matter, being desirous to recognize and protect any valid claim the State may have to any of the lands.

In reply to your general proposition and recommendation of a postponement of the public offering of all the lands that have been claimed until after the close of the next session of Congress, I have to state that, if the power exists in the President to make the order, I see no good reason for the exercise of such power in this case. The claim of the State having been found, by the decision of the Supreme Court of the United States, to be without sanction of law, is no longer an obstacle to the sale of the lands, and can no longer be cited as a reason or an excuse for withholding them from market after they had been surveyed for many years.

179 The power to withhold lands which have once been offered at public sale, in the absence of special authority from Congress, is one not exercised in the ordinary course of business.

The cases in which it is exercised are only such as arise out of the legislation of Congress where it is found that granted lands cannot fairly be seperated from the public domain, or private claims fairly protected, without the intervention of such a power. I have myself

always entertained this view of the question, and have invariably acted in accordance therewith. Though urgently solicited, in repeated instances, to recommend the withdrawal from market of bodies of public lands through which railroad lines have been authorized by State laws, in view of applications about to be made, or pending in Congress for a grant to aid in the construction of the railroads, I have uniformly declined to make any such recommendation. These solicitations have sometimes been made by a large portion or even the entire delegation from a State in the Congress of the United States, and by persons in high official positions in a commonwealth of the Union; but as
180 there is no law of Congress or principle of our government which confers on them any special authority to demand the suspension of any law of Congress, their requests, though regarded with the respect due to persons of the highest character, feeling a deep interest and having a great stake in all affairs of their respective States, could not be recognized by the executive authorities of the United States, any more than the requests of other citizens. The present case is one wherein, after all cause of withholding public lands from sale has ceased, the continuation of a reservation of them is asked, and I do not, on the principles above indicated, find it to be consistent with my official duty to recommend the further postponement of the date at which the lands in question shall be offered at public sale, and rendered liable to purchase by those who have the right to buy them. Though the remark is not strictly referable to the principles upon which I have acted, yet, as your letter places the interests of the State in comparison with the interests of the United States, I may be excused for saying that
181 if a conviction existed that the legislation of Congress was desirable and could have been obtained to protect the State in her claim to these lands, a period of more than ten years has elapsed since the claim of the State was first preferred, and within which the intervention of Congress might have been sought.

Again, I would remark that, so far as any proposition for congressional relief in behalf of the State was brought to the notice of this department during the last session of Congress, it was confined, as I understood it, to that portion of the claimed lands which have been heretofore certified by my predecessors, and which has not been included in the lists of land ordered into market. In respect to that class of lands, I had the honor, in a communication of the 11th June last, and addressed to Hon. R. W. Johnson, chairman of the Com. Pub. Lands of the U. S. Senate, to recommend the report to that body, for adoption by Congress, of the form of a joint resolution, as follows:

"*Resolved by the Senate and House of Representatives of the United States assembled*, That all the title which the United States still retain in the tracts of land along the Des Moines River, and above the
182 Raccoon Fork thereof, in the State of Iowa, which have been heretofore certified to said improperly by the Department of the Interior, as part of the grant by act of Congress approved August 8th, 1846, be and the same is hereby relinquished to the State of Iowa."

You thus perceive that, so far as my predecessors have acted under the grant of Aug. 8th, 1846, I was willing to recommend a confirmation of that action by Congress.

I cannot, however, go further. To do what you now ask would be to recommend to the President a course which I do not think the executive authorities of the United States ought to pursue under all the circumstances of the case.

Your request for postponement is in part based upon the belief ex-

pressed in your letter that the interests of settlers upon these lands will be oppressively affected by the sales which have been ordered. I feel great delicacy in intimating anything in opposition to the suggestion, as your means of forming a just opinion are so much superior to my own; yet I think many cases will be found in which the actual settlers who have made improvements on their lands will be glad to
183 have the opportunity of obtaining good titles, after that of the State, under which they went into possession, has been so long and successfully resisted.

Such as are personally qualified to be pre-emptions, by filing their declaratory statements and proving actual residence and improvement, as contemplated by the pre-emption laws, can enter with the U. S. land officers, at any time prior to the public sale, a quarter section of land by legal subdivisions, to include their residences and improvements; and such as are not qualified can appear & purchase their lands at the public sale, which will thus afford to all the opportunity of acquiring a valid title to the tracts of which they are now in possession.

In this matter I have been acting under an imperative sense of official duty, and regret that I do not find it consistent with my views of duty to recommend the postponement of the sales as advertised.

Very respectfully, your ob'd't serv't,

J. THOMPSON, *Secretary.*

His Excellency SAM'L J. KIRKWOOD,
Governor & etc., Fort Des Moines, Iowa.

184 WASH'N, 10 *Nov.*, '56.

SIR: In the matter of the Des Moines River improvement grant, I applied, in behalf of the comp'y to whom the State assigned the lands granted by the U. States, to have patents issued for the selections made and duly approved of sections below and above the Raccoon Fork. I am aware that this of itself is supposed by your department to be sufficient to vest the title in the company, but in consequence of the different construction of the grant made by the U. States, a cloud rests over such title, which, in a great measure, renders the lands unavailable.

This would be, perhaps, entirely removed if patents were issued; and it was with that view that I applied for them. It seemed to me that as no possible injury could result from their issue to the U. States, and the security of the grantees be made the better, and they enabled to dispose of the property to better advantage, that there could be no objection to the gratification of my application.

The general power to issue patents to give title to all lands in any way acquired from the U. States seemed to me to be clear, and this as an incident to the actual grant. That in this view no particular statutory authority need exist, and that if such authority was given in any case it was but cumulative. Please consider the matter at your earliest leisure, and give me the result. Should you not agree with me as to the patents, say if I am not correct in the opinion that the selections and approval pass the entire title of the U. States as effectually as patents would pass it.

With great regard, your obedient servant,

REVERDY JOHNSON.

Honorable Mr. MCCLELLAND, *&c., &c., &c., Washington.*

185 *Pl'ff's Exhibit J.—S. Sibley, Com'r.*

GENERAL LAND OFFICE,
Dec. 27th, 1865.

I, J. M. Edmunds, Commissioner of the General Land Office, do hereby certify that the annexed, on pages one to three, inclusive, is a true and literal exemplifications of the original on file and of record in this office.

In testimony whereof, I have hereunto subscribed my name and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.]

J. M. EDMUNDS,
Commissioner of the General Land Office.

186 GENERAL LAND OFFICE,
May 10, 1856.

You will suspend from sale or location all the lands in your district until further orders.

Acknowledge the receipt of this dispatch by telegraph and mail.

THOS. A. HENDRICKS, *Commissioner.*

REGISTERS AND RECEIVERS,
Council Bluffs, *Iowa.*
Dubuque, "
Chariton, "
Fort Des Moines, "

GENERAL LAND OFFICE,
May 15*th*, 1856.

REGISTER AND RECEIVER, *Ft. Des Moines, Iowa:*

GENTLEMEN: By my telegraph dispatch of the 10th inst., you were directed to suspend from sale or location all the lands in your district until further orders. The object of this withdrawal was to protect from sale the lands granted to the State of Iowa for four railroads running from the Mississippi River to the Missouri, by a bill which had passed both houses of Congress.

Said bill having this day been approved by the President, has become a law, and you will continue to withhold from sale or location until further orders.

It is designed to adjust these several grants with as little delay as practicable, in order that the lands remaining to the United States may be returned to market.

I am, very respectfully, your obedient servant,

THOS. A. HENDRICKS,
Commissioner.

187 GENERAL LAND OFFICE,
June 19, 1856.

REG. & REC., *Chariton, Iowa:*

GENTLEMEN: Instructions having been sent you from this office by telegraph on the 10 ult'o, & subsequently by mail on the 15th ult., in reference to the withdrawal from market of certain lands in your district, in pursuance to an act of Congress approved on the 15th ult., "making a grant of land to the State of Iowa in alternate sections, to aid in the construction of certain railroads in said State," you are advised that settlements are authorized upon any of the lands thus with-

drawn, and rights of pre-emption may be acquired, as well to sections which may be odd-numbered, and within the six-mile limits of the line of the railroad, as to the other lands so reserve.

By the 1st section of the act referred to, the United States can dispose of, by pre-emption, any of the lands thus withdrawn up to the time "when the lines or routes of said roads are definitely fixed." Then, and not till then, will the rights of the State attach under the said
188 act to all vacant lands in the odd-numbered sections within the six-mile limits.

Acknowledge the receipt of this.

Very respectfully, &c.,

THOS. A. HENDRICKS,
Commissioner.

A similar letter was sent of this date to the following officers in Iowa: Dubuque, Fort Des Moines, Council Bluffs, Fort Dodge, Sioux City.

GENERAL LAND OFFICE,
May 12th, 1856.

Hon. GEO. W. JONES, *U. S. Senate:*

SIR: In reply to the inquiries in your letter received this morning, I have to state, according to a hasty estimate at this office—

1st. That the lands along the Illinois Central railroad were offered between the years 1816 and 1844, embracing a period of 28 years; assuming 14 years as the average, and adding 12, the term elapsed since 1844, we have the average term the lands have been in market, 26 years, hence the price under the graduation act would be 25 cents per acre.

2d. See enclosed printed statement in Commissioner's Annual Report of November 30, 1854, pages 17 and 18, which shows as follows:

Sold within six-mile limits, 765,690 acres for $1,936,075; average price, $2 54 per acre. Sold within fifteen miles, including the above, 2,377,994 acres for $3,989,210; average price, $1 68 per acre.

3. The enclosed statement marked "A" shows the estimated length of the railroads and the amount which would accrue to the State under the bill.

I am, respectfully, your obedient servant,

THOS. A. HENDRICKS,
Commissioner.

189 "A."

Iowa railroad grants.

Routes.	Estimated miles.	Granted.
Dubuque, via Fort Dodge, to Iowa City	395	1,132,800
Lyons City, via Mauquoketa, due west to Missouri River	325	1,248,000
Davenport, via Iowa City, Fort Des Moines, to Council Bluffs	290	1,113,600
Burlington, west, to mouth of Platte River	255	979,200
Total	1,165	4,320,000
Deduct for Des Moines River grant, which crosses 4 times 10×4	40	153,600
Leaves	1,125	4,320,000

Quantity to which the State would be entitled if to be had within the alternate sections, within fifteen miles of the road.

Whole surface of Iowa is	32,584,960 acres.
Estimated vacant 30th September, 1855	13,874,163 "
Amount that would be liable for selection, if the lands were all vacant 1,125×15×640 acres	10,800,000
Therefore as 32 : 13 :: 10,800,000—	4,387,500

The estimated amount vacant and liable to selection for the grant within the prescribed limits, and equal to the quantity granted. But the deficiency on one route cannot be made up on another; it is not possible, therefore, that the lands will hold out.

GENERAL LAND OFFICE,
March 3, 1857.

SIR: In reply to your communication of the 28th ultimo, requesting a statement of the quantity of land which will enure to the Dubuque & Pacific Railroad Company in Iowa, under the act of Congress approved 15th May, 1856, subject to the terms and conditions in said act and to the acts of the legislative assembly of said State, the following estimates, carefully prepared at this office, are communicated:

1. The length of the Dubuque & Pacific road and branch to Tete des Morts, measured on the official map of the route, is	331½ miles.
Which at six sections, or 3,840 acres per mile, would make	1,272,960 acres.
Deduct for water	21,920 "
Leaves	1,251,040 "

To which the company would be entitled if found vacant in the odd-numbered sections within fifteen miles of the road.

2. The estimated quantity of vacant in the odd-numbered sections within fifteen miles of the road and liable for selection (all situated in Iowa) is as follows:

In the Sioux City district	880,200 acres.
" Fort Dodge "	415,360 "
" Dubuque "	11,045 "
Total	1,306,605

Which is exclusive of the quantity of 151,800 acres claimed for the Des Moines River grant above the Raccoon Fork, within the fifteen miles limit of the railroad grant, and not yet decided.

It appears, therefore, from the above, that the Dubuque & Pacific Railroad Company will obtain their full complement of land under the grant estimated to cover 1,251,040 acres.

I am, very respectfully, your obedient servant,
THOS. A. HENDRICKS,
Commissioner.

Hon. BERNHART HENN,
Agent of the State of Iowa and the Railroad Companies,
Washington, D. C.

190 *Pl'ff's Exhibit K.—S. Sibley, Com.*

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Oct. 20, 1868.

I, Joseph S. Wilson, Commissioner of the General Land Office, do

hereby certify that the annexed copy is a true and literal exemplification of the original on file in this office.

In testimony whereof, I have hereunto subscribed my name and caused the seal of the office to be affixed, at the city of Washington, on the day and year above writen.

[SEAL.]

JOS. S. WILSON,
Commissioner of the General Land Office.

191

DEPARTMENT OF THE INTERIOR,
July 16, 1856.

SIR: I return herewith the letter of W. C. Johnson, esq., submitted in yours of the 14th inst., having relation to the grant for the improvement on the river Des Moines, and agree with you in opinion that action should be suspended in reference to the subject-matter until the assent of the proper authorities is obtained to the conditions mentioned in the Attorney General's opinion of the 29th May, and my letter of the 9th June last.

Respectfully, your ob't serv't,

R. McCLELLAND,
Secretary.

To JOS. S. WILSON,
Acting Commissioner of the General Land Office.

192

Pl'ff's Exhibit L.—S. Sibley, Com'r.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Oct. 20, 1868.

I, Joseph S. Wilson, Commissioner of the General Land Office, do hereby certify that the annexed copy is a true and literal exemplification of the originals on file in this office.

In testimony whereof, I have hereunto subscribed my name and caused the seal of this office to be affixed at the city of Washington, on the day and year above written.

[SEAL.]

JOE. S. WILSON,
Commissioner of the General Land Office.

193

DEPARTMENT OF THE INTERIOR,
June 9th, 1856.

SIR: I return herewith the papers in reference to the grant for the improvement of the Des Moines River, which accompanied your report of the 24th March, and enclose therewith several letters and arguments which have been received here since the date of your report.

Having submitted the subject to the Attorney General for his opinion upon the questions involved, I enclose a copy of such opinion furnished me under date of the 29th ult., and also a letter under date of the 5th inst., from the Hon. Reverdy Johnson, (the attorney for the claimants under the grant,) in regard to the conditions upon which subsequent approvals up to the limits of the State of Iowa are recommended by the Attorney General to be made. In the subsequent action upon selections not yet approved, I have concluded to be governed by the advice of the Attorney General as contained in the paragraph near the close of such opinion, beginning with the words, "I advise therefore that you propose to the State of Iowa and its assigns," and ending with, "You can with safety award to them the residu of the claim up to the northern boundary

of the State." It will be perceived from the endorsement on Mr. Johnson's letter, above referred to, that he has undertaken to procure the assent of the State and its assigns to the conditions referred to, so that the necessity is obviated of any direct proposition to that effect on the part of the department, but no further action will be taken until the parties are heard from on this point.

In the certificate of approval hereafter prepared for my signature on any list submitted, the fact should be stated, that the approval being based upon the prior action of the department and upon the ground that the grant is to be confined to the northern boundary of the State of Iowa, the acceptance by the State and its assigns would be considered an acquiescence on their part in this limit and an abandonment of all claim beyond it, as it is upon this basis alone I can feel justified in yielding my assent to the claim preferred.

Should the assent of the parties be given in writing, the certificate of approval will be so varied from the language above as to conform to that state of facts, but without losing sight of the real groundwork of my assent to the approval.

Respectfully, your obedient servant,

[SEAL.] R. McCLELLAND,
Secretary.

To Hon. Thos. A. Hendricks,
Commissioner of the General Land Office.

194 *Pl'ff's Exhibit M.—S. Sibley, Com'r.*

General Land Office,
Dec'r 27th, 1865.

I, J. M. Edmunds, Commissioner of the General Land Office, do hereby certify that the annexed on pages one to five, inclusive, is a true and literal exemplification of the originals on file and of record in this office.

In testimony whereof, I have hereunto subscribed my name and caused the seal of this office to be affixed at the city of Washington, on the day and year above written.

[SEAL.] J. M. EDMUNDS,
Commissioner of the General Land Office.

195 Executive Chamber, Iowa,
Des Moines, April 28, 1858.

To his excellency James Buchanan,
President of the United States:

I, Ralph P. Lowe, governor of the State of Iowa, as required by act of Congress approved August 8th, 1846, "granting certain lands of the Territory of Iowa to aid in the improvement of the navigation of the Des Moines River, in said Territory," do hereby certify that there has been expended from time to time prior to the date hereof, on the improvement of said river, as the work has progressed, and the money has been required under certain contracts made by the State of Iowa, with the Des Moines Navigation and Railroad Company, the sum of three hundred and thirty-two thousand six hundred and thirty-four 4-100 dollars, ($332,634 04,) and in consideration of said expenditures on said improvement, and in pursuance of the provisions of the act of Congress approved as aforesaid, there will be conveyed to said Des Moines Navigation and Railroad Company two hundred and sixty-six thousand one hundred and seven 23-100 acres (266,107 23-100 acres) of the land belong-

ing to said grant, and which have been certified and approved to the State of Iowa under said act for the prosecution of the improvement of said river Des Moines.

In testimony whereof, I, Ralph P. Lowe, governor of the State of Iowa, have caused the great seal of the State of Iowa to be hereunto affixed, together with my signature.

[SEAL.] RALPH P. LOWE.

By the governor:

ELIJAH SELLS, *Secretary of State.*

196 GENERAL LAND OFFICE,
September 19th, 1850.

His ex'y M. FILLMORE,
President of the United States:

SIR: I have the honor to acknowledge the receipt of the letter from several members of the Senate and House of Representatives referred by you to this office, asking that the sale of the lands within twenty-five miles of the supposed route of the railroad from Chicago to Mobile, be suspended for six months, or until the lands shall have been located, in order that the act may be fully carried out, that was recently passed by Congress, "granting the right of way, and making a grant to the States of Illinois, Mississippi, and Alabama, in aid of the construction of that road;" and in accordance with your instructions beg leave to report—

That so far as I have been able to examine the question, no authority has been specially conferred upon the President, by law, to suspend the sale of lands in cases of this character, where they have been proclaimed and offered at public sale. It would appear, however, that he has always been considered as having that authority, by implication, from the nature of the duties devolved on him by the whole system of laws making provision for the sale and disposition of the public domain. For the cases, among others, in which this authority has been exercised by the President, I refer to a letter from this office to the register at Piqua, Ohio, on the 28th September, 1828, and which is as follows, to wit:

"The President having been advised by the governor of Ohio, that the route of the canal from Dayton to Lake Erie, by the Maumee, will probably pursue the course of the Anglaise River from the head of some one of its branches to its mouth, he has directed that the lands lying on the same, and to the extent appropriated by the act passed the 24th of May last, be reserved from sale till further advised. The governor of Ohio has been requested to designate to you that branch of the Anglaise on which the canal will most probably be located.

"With respect, &c.,

"GEO. GRAHAM, *Commissioner.*"

Similar instructions were issued by Commissioner Blake to the land office at Green Bay, on the 11th April, 1844, for reserving the lands along the Wisconsin and Fox Rivers, in anticipation of the passage of an act making a grant for the improvement of those rivers; and the reservation then ordered was extended by instructions to those offices on the 8th August, 1846, the day on which the law was passed by Congress making the grant.

In many other cases the same authority has been exercised, but to a less extent; the foregoing, however, being of an early and late date, are deemed sufficient to show that the President has always been regarded as having this authority, and as it has thus been exercised, and in the

present case must of necessity be inferred to enable the executive to secure to the States mentioned, and the general government, the benefits conferred by the law, and thus carry out the intention of Congress passing it, I respectfully recommend—

That instructions be issued to the land offices in Illinois to withhold from sale or location of any kind, till further ordered by this office, all the lands belonging to the government within three full townships, or eighteen miles, on each side of the supposed line of this road, and that the land offices in Mississippi and Alabama be instructed to withhold, in like manner, all the lands within four full townships, or twenty-four miles, on each side of said route.

The lands can be suspended from sale much more conveniently by townships than by any other given distance; and the reason for recommending the withholding of a less extent in Illinois than in the other States is, that the lands in that State are more sought by actual settlers at this time, than in the others, and the general route that the road will pass can be more nearly ascertained.

All of which is most respectfully submitted.

With great respect, your obedient servant,

J. BUTTERFIELD, *Commissioner.*

197 *Pl'ff Exhibit N.—S. Sibley, Com'r.*

IOWA CITY, *December* 17, 1846.

To his excellency JAMES CLARK,
Governor of Iowa Territory:

SIR: The undersigned, commissioners, appointed under the provisions of the act of Congress approved August 8th, 1846, making a grant of land for the improvement of the Des Moines River, beg leave to report to your excellency, that we have selected the odd sections as designated on the map furnished by the General Land Office, showing the location of the Des Moines and the sections of land within five miles of said river, which map is herewith returned to you.

Very respectfully, your obedient servants,

JESSE WILLIAMS.
JOSIAH H. BONNEY.

OFFICE OF THE BOARD OF PUBLIC WORKS,
Keokuk, Iowa, Sept. 18, 1848.

SIR: The attention of this office has been called to the proclamation of the President of the United States, bearing date the 19th June last, for the sale of lands in Iowa, by which I perceive that lands donated to this State for the improvement of the Des Moines River, are to be offered for sale at Iowa City, on Monday, the 16th October next. These lands are situated above the Raccoon Forks of the Des Moines River, in townships No. 79, 80, &c., ranges No. 25, 26, &c., and a sale by the United States will be in conflict with your opinion expressed to me in your letter of the 23d February last, in which you say that "the State is entitled to the alternate sections within five miles of the Des Moines River, throughout the whole extent that of river, within the limits of Iowa."

Your very liberal opinion has influenced this board to place sixty miles of the contemplated improvement under contract, in addition to the thirty miles first let, and the State would now be greatly embarrassed by any impediments to her favorable prospects in this regard. We believe that the fact of having these lands embraced in the proclamation

was an oversight, without any intention to curtail the resources of the State, and that it will be corrected on being discovered.

Very respectfully, sir, your obedient servant,

CHARLES CORKERY,
Secretary of Board of Public Works.

Hon. R. M. YOUNG,
Commissioner of General Land Office.

198 CONGRESS, *January 18th*, 1849.

SIR: During the last summer we were much surprised to see lands proclaimed for sale by the President of the United States, which had been declared by the General Land Office, and considered by the people of Iowa, as the property of that State, under the act of 8th of August, 1846, "granting certain lands to the Territory of Iowa, to aid in the improvement of the navigation of the Des Moines River, in said Territory."

On inquiring of the Commissioner of the General Land Office as to the reasons for this course, he informed us that he had changed his original opinion as to the extent of this grant, and was now inclined to think that it was limited to the Raccoon Fork; but no official promulgation of this opinion has yet been given, except negatively, by proclaiming the lands as above mentioned.

The granting clause in the act of August 8th, 1846, is so clear, that we are constrained, by a due regard to the interests of the people and State of Iowa, to ask your consideration of the subject; and we are further encouraged to take this course, as the Commissioner, we are assured, will be pleased to extend to the State the full complement of the grant, if the law, in your opinion, should bear that construction. This act of August, 1846, is found in the acts of the first session 29th Congress, page 115.

The first part of the first section designates the object for which the grant was made, to wit: "There shall be, and hereby is, granted to the Territory of Iowa, for the purpose of aiding the said Territory to improve the navigation of the Des Moines River, from its mouth to the Raccoon Fork (so called) in said Territory."

The next clause describes the grant and its extent, to wit: "One equal moiety, in alternate sections, of the public lands (remaining unsold, and not otherwise disposed of, incumbered, or appropriated) in a strip five miles in width on each side of the river."

This language is so plain that the extent of the grant is a self-evident proposition, and requires no argument. But the idea is entertained that the improvement governs the extent of the grant. This construction, we beg leave to state, has never obtained. Grants have frequently been made for seats of government, county sites, and the erection of public buildings, but in no case has it been contended that the object of the grant governs the extent of it; otherwise, the act passed by Congress on the same day with that now in consideration, (page 140,) "to grant a certain quantity of land to aid in the improvement of the Fox and Wisconsin Rivers, and to connect the same by a canal in the Territory of Wisconsin," must be construed as running the whole length of the Wisconsin River also, as the limitation of that grant to the Fox River, the lakes through which it passes, and the canal, is not more specific than the terms used to designate the grant for the improvement of the Des Moines River.

The reason for this extension of the grant to Iowa above the terminus of the improvement is, moreover, manifest; because, near the mouth of the river, that improvement will be very expensive, and there the grant

does not attach, because the lands on the Missouri side of the river, below Sullivan's line, are in Missouri, and those on the Iowa side are the property of individuals, and, further, most of the lands some distance up the Des Moines have been sold by the government; and, as the grant is only of the unsold and unappropriated lands in the alternate sections, the only equivalent for those which had been sold that could be given are the vacant lands far in the interior from the Mississippi; and hence the terms used in the law.

As the terms of the act, then, are so clear and explicit, and as the reasons for the extension of the grant, as provided by that act, are so obvious, we respectfully request, in our own behalf, and in behalf of the State and her citizens, who look with that confidence heretofore so fully justified, that you will not withhold the munificence of Congress, and thus cripple this young and rising State in her first great enterprise, and thus involve her in inextricable debt and difficulty. We earnestly request that you will give the necessary instructions for the selection and approval of these lands along the entire route of the Des Moines, as contemplated by the law, as fast as the surveys are made and returned, and that the lands which belong to the State, which have been inadvertently offered, and which remain unsold, may be withdrawn from the market, and certified to the State also.

We have the honor to be, with great respect, your obedient servants,

A. C. DODGE.
GEORGE W. JONES.
SHEPHERD LEFFLER.
WM. THOMPSON.

Hon R. J. WALKER,
Secretary of the Treasury.

199 GENERAL LAND OFFICE,
December 19th, 1849.

SIR: A letter has been received at this office from the Hon. A. C. Dodge and the Hon. Geo. W. Jones, inclosing one from you to the former, dated the 30th ult., requesting that you may be furnished with a list of the Des Moines River grant above the Raccoon Fork. In reply, I have to state that said list has not been furnished, for the reason that the posting of the land warrants in the Iowa City district was not completed on the books of this office until recently. Said list is now in course of preparation, and will be ready for transmission at an early day. In the latter part of your letter you say, "The lists heretofore forwarded of land below the fork have been furnished the Secretary of State, instead of the board, who are the rightful and only agents of the State for said land."

In the absence of evidence showing the right of another to receive confirmed lists of State grants, it is usual to send them to the Secretary of State. Such is [is] the case at present in relation to this grant. If, however, you will furnish this office with evidence as to your right, as secretary of the board of public works, to receive said lists, and to correspond with this office in relation thereto, they will hereafter receive the desired direction.

I am, sir, your obedient servant,

J. BUTTERFIELD, *Commissioner.*

JESSE WILLIAMS, Esq., *Iowa City, Iowa.*

DEPARTMENT OF THE INTERIOR,
Washington, April 6th, 1850.

SIR: Having considered the question submitted to me, connected with the claim of the State of Iowa to select under the act of August 8th, 1846, lands for the improvement of the Des Moines River, I am clearly of the opinion that you cannot recognize the grant as extending above the Raccoon Fork without the aid of an explanatory act of Congress. It is clear to my mind, from the language of the act of August 8th, 1846, itself, that it was not the intent of the act to extend it further. My construction is confirmed by the report of the committee and the accompanying papers. If in any report to Congress you have recognized the grant as extending to the source of the river, it will be proper to correct it, that Congress, if they see fit, may extend the grant. The opinion expressed by the late Secretary of the Treasury on the subject is entitled to great respect, but I cannot concur in it, and the law not having been carried into effect by him, his opinion merely expressed is open for reversion.

The lists of selections and other papers submitted with your letter of the 13th ultimo are herewith returned.

As Congress is now in session, and may take action on the subject, it will be proper, in my opinion, to postpone any immediate steps for bringing into market the lands embraced in the State's selections.

I am, sir, very respectfully, your obedient servant,
T. EWING, *Secretary*.

The COMMISSIONER OF THE GENERAL LAND OFFICE.

DEPARTMENT OF THE INTERIOR,
Washington, July 26, 1851.

SIR: Enclosed I send you a copy of an opinion of the Attorney General, dated the 30th ultimo, in which I concur, relative to the claim of the State of Iowa, under the act of 8th August, 1846, to alternate sections of land along the Des Moines River, above Raccoon Forks, together with all the papers in the case.

The order of Mr. Secretary Ewing of the 6th April, 1850, for the withholding of these lands from market until the close of the then session of Congress may be continued to the end of the approaching session, in order to give the State the opportunity of petitioning for an extension of the grant by law.

I am, sir, very respectfully, your obedient servant,
ALEX H. H. STUART, *Secretary*.

The COMMISSIONER OF THE GENERAL LAND OFFICE.

200 GENERAL LAND OFFICE,
March 16th, 1852.

SIR: In compliance with the request made in your letter of 5th February last, I herewith transmit an exemplified copy of a list showing the vacant lands, in the odd-numbered sections above the Raccoon Forks, and within five miles of the Des Moines River, so far as the surveys have progressed, falling to the State of Iowa, under the act of 8th August, 1846, as construed by the Secretary of the Treasury in his letter of 2nd March, 1849, and of the Secretary of the Interior of 29th October, 1851, approved by the Secretary of the Interior on the 10th inst.

I am, very respectfully, your obedient servant,
J. BUTTERFIELD, *Commissioner*.

GEORGE GILLASPY, Esq.,
Register, &c., Ottumwa, Iowa.

GENERAL LAND OFFICE,
November 1*st*, 1851.

To V. P. VAN ANTWERP, Esq., *Present:*

SIR: In compliance with the request contained in your letter of this date, to be furnished with lists approved by the Secretary of the Interior, of the lands granted to the State of Iowa by the act of Congress of the 8th of August, 1846, or such portion of them as can now be prepared, I herewith enclose certified copies numbered 1, 2, & 3 of said lists.

No. 1 shows the odd-numbered sections and parts of sections within the limits of the Des Moines River grant above the Raccoon Fork, in the townships embraced in said list.

No. 2 shows the tracts sold within the above-mentioned sections and parts of sections between the 24th of August, 1848, and the 16th of June, 1849, the period during which the grant was supposed to be limited on the north by the Raccoon Fork.

No. 3 shows the residuary or vacant tracts, after deducting from list No. 1 the sales contained in list No. 2, and is an exhibit, therefore, of the lands accruing to the State in virtue of the grant, not interfered with by previous sales.

You will perceive that list No. 3 only has been approved by the Secretary.

Very respectfully, your obedient servant,
J. BUTTERFIELD, *Commissioner.*

GENERAL LAND OFFICE,
February 17*th*, 1859.

SIR: I have the honor to acknowledge the receipt of the petition referred by you to the department, on the 12th inst, of sundry citizens of Fort Dodge district, Iowa, asking that certain lands in said district may be brought into market, and in regard to the matter to state that the lands referred to by the memorialists are withheld from market in view of the grant to Iowa by act of August 8, 1846, to aid in the improvement of the Des Moines River.

Very respectfully, your obedient servant,
THOS. A. HENDRICKS,
Commissioner.

Hon. G. W. JONES, *U. S. Senate.*

201 GENERAL LAND OFFICE,
June 26, 1862.

SIR: The attention of this office has been called to the condition of the lands in the region of the Des Moines River, above the mouth of the Raccoon Fork, which were claimed by the State of Iowa, under the act of 8th August, 1846, for the improvement of said river.

1st. The act of 1846, by the decision of the Supreme Court of the United States at its December term, 1859, is restricted to the lands lying below the mouth of the Raccoon Fork, and the claim of the State to all lands above that point is abnegated.

2nd. Under said decision of the Supreme Court, the Secretary of the Interior has held that the alternate odd-numbered sections falling within the six and fifteen mile limits of the railroads, where they traverse the region of the Des Moines River above the mouth of the Raccoon Fork thereof, would enure to the State, under the act of 15th May, 1856, to aid in the construction of said roads.

3rd. The joint resolution of Congress of the 2nd March, 1861, declares "that all the title which the United States still retain in the tracts of land along the Des Moines River, and above the mouth of the Raccoon Fork thereof, in the State of Iowa, which have been certified to said State improperly, by the Department of the Interior, as part of the grant by Congress, approved August eighth, eighteen hundred and forty-six, and which is now held by bona fide purchasers under the State of Iowa, be, and the same is hereby, relinquished to the State of Iowa."

To enable us properly to act in the matter, in view of the aforesaid decision and resolution, I have to request that you will furnish this office with a list of the tracts of land therein referred to, "held by bona fide purchasers of the State of Iowa," on the 2nd March, 1861, certified under official seal, specifying in each case the date of sale, name of purchaser, consideration, and date of patent, or deed of conveyance by the State, with all the essential particulars connected with the transaction.

This information is requested at your earliest convenience.

Very respectfully, your obedient servant,

J. M. EDMUNDS, *Commissioner.*

To his excellency GOVERNOR OF IOWA,

Des Moines, Iowa.

STATE OF IOWA, *County of Polk, ss:*

Personally appeared before the undersigned, a notary public in and for said county, Josiah A. Harvey, who, being sworn on oath, states that he is the commissioner appointed by chapter 79 of the acts of the 11th general assembly of the State of Iowa, to adjust for said State certain land matters with the general government, and that the settlement relative to the excess of lands received by the State under the grant of September 4, 1841, and the lands falling to the State under the joint resolution of March 2, 1861, and the act of Congress of July 12, 1862, and which was approved by the Secretary of the Interior May 22, 1866, was made in pursuance of said act of the general assembly, and in view of the law, as it was understood to be settled in the case of the "Dubuque and Pacific Railroad Company vs. Litchfield," (23 Howard, 66,) without regard to the interests or claim of the "Des Moines Navigation and Railroad Company," or those claiming under them, and that so far as he knows, said company never, in any manner, consented to or approved of said settlement; that they were not consulted relative to it, nor had anything whatever to do with it so far as he knows; and further saith not.

JOSIAH A. HARVEY.

Sworn and subscribed before me, by the said Josiah A. Harvey, this July 10, 1868.

Witness my hand and notarial seal.

[NOTARIAL SEAL.] SAMUEL A. AYRES,

Notary Public, Polk County, Iowa.

202 On 25th May, 1860, Wm. T. Stieger, an agent in behalf of the Dubuque and Pacific Railroad Company, filed in the General Land Office a list of lands laying within the claimed limits of the Des Moines River grant, above the Raccoon Fork, and claimed to select some of them for said railroad company, under the act of 15th May, 1856, granting lands to Iowa for railroad purposes.

The Commissioner of the General Land Office, in June, 1860, acknowledged the receipt of the list, and added:

"The tracts in said list are above the Raccoon Fork, and within the

lands that had been selected under the Des Moines River grant by act of 8 August, 1846, and in view of the recent decision of the Supreme Court affecting a title to lands under that grant above the said fork, the present lists are presented by you. As the matter has been placed in train for congressional intervention, no action can be taken in the matter presented by you, until Congress shall have had time to consider and dispose of the subject.

"Respectfully, your obedient servant,

"JOS. S. WILSON, *Commissioner.*"

On the 7th July, 1860, the Commissioner of the Land Office, in an official letter to the Secretary of the Interior in relation to the same subject, said:

"Without passing upon, or, in fact, considering the question as to the right of the State under the railroad grant to these lands, which at the date of the grant had been withdrawn from sale or location, the fact that Congress has taken incipient action in the matter of itself justifies us in not recommending further proceedings by the department until after the close of the next session of Congress.

"Respectfully, your obedient servant,

"JOS. S. WILSON, *Commissioner.*"

DEPARTMENT OF THE INTERIOR,
Washington, Sept. 6th, 1860.

SIR: In the absence of any direct application by the governor of the State of Iowa for final action in the certification of certain lands common to the claimed limits of the grant to that State for the improvement of the Des Moines River, and the grants for aid in constructing railroads, my opinion is that it will be proper, as you suggest, to delay action until after the close of the next session of Congress.

The papers enclosed with your letter of the 7th July last, and 3d instant, are now returned.

Very respectfully, your obedient servant,

J. THOMPSON, *Secretary.*

The COMMISSIONER OF THE GENERAL LAND OFFICE.

203 GENERAL LAND OFFICE,
January 6th, 1854.

SIR: Herewith I enclose a certified copy of a list of lands falling within the Des Moines River grant under act of 8th August, 1846, selected by the State of Iowa under the 8th section of the act of the 4th September, 1841, on the 20th July, 1850, and erroneously approved the 20th February, 1851, previous to the adjustment of the grant, and before it was known that they belonged to the State under the Des Moines River grant, now approved by the Secretary of the Interior under the act of 8th August, 1846. The quantity of land embraced by the list is twelve thousand eight hundred and thirteen acres and fifty-one-hundredths of an acre, (12,813.51.)

Thos. H. Benton, jr., esq., superintendent of public instruction, has been advised that the State is authorized to select an equal quantity under the act of 1841 in lieu thereof.

I am, very respectfully, your obedient servant,

JOHN WILSON, *Commissioner.*

GEORGE GILLASPY, Esq.,
Register State Land Office, Ottumwa, Iowa.

The following is a section of the statute of the State of Iowa, which has been in force since 1851:

"Where a deed purports to convey a greater interest than the grantor was at the time possessed of, any after acquired interest of such grantor, to the extent of that which the deed purports to convey, enures to the benefit of the grantee."

Code 1851, section 1202. Revision 1860, section 2210.

204 *Pl'ff Exhibit N ½.—S. Sibley, Com'r.*

RESOLUTION No. 11.—*Des Moines River grant.*

JOINT RESOLUTION accepting the grant of land for the improvement of the navigation of the Des Moines River.

Resolved by the general assembly of the State of Iowa, That the donation of land contemplated in an act of Congress approved August 8th, 1846, granting certain lands to the Territory of Iowa, to aid in the improvement of the navigation of the Des Moines River in said Territory, be and the same is hereby accepted for the purposes specified in said act: *Provided*, That the said grant of land contemplated in the said act does not form a part or come out of the five hundred thousand acres to which the State of Iowa is entitled, upon her entrance into the Union, by virtue of the act of Congress of 1841; and,

Whereas the general assembly of Iowa does not believe that this grant ought to constitute a part of the five hundred thousand acres granted to the new States: Therefore,

205 *Be it further resolved*, That if such was the intention of Congress in the passage of the law making the grant, that our representatives in Congress be hereby instructed to use their effort to obtain the same grant contemplated in the act of Congress of August, 1846, and for the same purpose, seperate and distinct from the grant contemplated in the act of 1841.

Resolved further, That this legislature is of the opinion that it is contrary to the usage of Congress to make donations of lands to States in any manner, except to confine such donation to the particular uses for which it was made; that the restriction in said act of Congress of August, 1846, which confines the State to the sale of no more than thirty thousand dollars at any one time, would render it impossible for the State to prosecute the improvement of the Des Moines River in such a manner as would make it advantageous either to the State or contractor; and that we hereby request our delegation in Congress to use their efforts to procure such a change in the act of August, granting to Iowa lands for the improvement of the Des Moines River, as will

206 authorize the State to sell and dispose of the lands in any quantity and at any time it may be deemed best to effect the contemplated improvement.

Resolved further, That these resolutions be immediately forwarded to our representatives in Congress.

Approved January 9th, 1847.

206a JOINT RESOLUTIONS containing propositions for the settlement with the Des Moines Navigation and Railroad Company. (Approved March 22d, A. D., 1858.) 7th general assembly, resolution No. 4, page 427, rev. 906.

Whereas the Des Moines Navigation and Railroad Company have heretofore claimed, and do now claim, to have entered into certain contracts with the State of Iowa, by its officers and agents, concerning the

improvement of the Des Moines River, in the State of Iowa; and whereas disagreements and misunderstandings have arisen, and do now exist, between the State of Iowa and said company, and it being conceived to be to the interest of all parties concerned to have said matters, and all matters and things between said company and the State of Iowa, settled and adjusted: Now, therefore,

Be it resolved by the general assembly of the State of Iowa, That for the purpose of such settlement, and for that purpose only, the following propositions are made by the State to said company: That the said company shall execute to the State of Iowa full releases and discharges of all contracts, agreements, and claims with or against the State, including rights to water rents which may have heretofore or do now exist, and all claims of all kinds against the State of Iowa, and the lands connected with the Des Moines River improvement, excepting such as are hereby by the State secured to the said company; and also surrender to said State the dredge-boat, and its appurtenances, belonging to said improvement; and the State of Iowa shall, by its proper officer, certify and convey to the said company all lands granted by an act of Congress approved August 8th, 1846, to the then Territory of Iowa, to aid in the improvement of the Des Moines River, which have been approved and certified to the State of Iowa by the general government, saving and excepting all lands sold or conveyed, or agreed to be sold or conveyed, by the State of Iowa, by its officers and agents, prior to the 23d day of December, 1853, under said grant; and said company, or its assignees, shall have right to all of said lands as herein granted to them as fully as the State of Iowa could have under or by virtue of said grant, or in any manner whatever, with full power to settle all errors, false locations, omissions, or claims in reference to the same, and all pay or compensation therefor by the general government, but at the costs and charges of said company, and the State to hold all the balance of said lands, and all rights, powers, and privileges under and by virtue of said grant, entirely released from any claim by or through said company; and it is understood that among the lands excepted and not granted by the State to said company are 25,487 87-100 acres lying immediately above Raccoon Fork, supposed to have been sold by the general government, but claimed by the State of Iowa.

And it is further agreed that said company release and convey to the State of Iowa, or its representatives, all materials of every kind and description prepared for or intended for the construction of locks or dams in said improvement, wheresoever the same may be; and the State shall take the existing contracts, but no other liabilities of any name or nature, except as herein provided, for constructing or repairing the works on said improvement at Keosauqua, Bentonsport, Plymouth, and Croton, and no other or different, with all liabilities and advantages arising upon said contracts, and percentage retained thereon, excepting that the company shall pay all estimates for work done or material prepared up to this date, beyond the percentage retained from the contractors under their agreements; and the said company shall be discharged from all liability for the claims of the officers of the State for services or salaries.

206*b* The said company hereby agree to pay the State the sum of twenty thousand dollars, which sum shall be paid to the order of the commissioner of the Des Moines River improvement (as fast as he may require the same to liquidate existing liabilities against said Des Moines River Improvement) on thirty days' notice given to said company at their office in the city of New York; and any bonds or certificates of indebted-

ness against said improvement not exceeding in amount the sum of $11,000, which are now due and unpaid, are to be received in part payment of said sum of twenty thousand dollars: *Provided*, That no liabilities assumed by the State in this contract shall be a charge against the State in her sovereign capacity, but all such liabilities, if any, shall be chargeable upon and payable out of the remaining lands belonging to the Des Moines River grant: *And provided, also*, That if Congress shall permit a diversion of the lands of said Des Moines River grant, or the title thereto shall become vested in the State, so as to become subject to grant, the said remaining lands, after the payment of all liabilities as aforesaid against said improvement, and the completion of such locks and dams on the Des Moines River as the legislature shall direct, shall be granted to the Keokuk, Fort Des Moines, and Minnesota Railroad Company, to aid in the construction of a railroad up and along the valley of the Des Moines River, upon such terms and in such manner as the legislature may provide, one-fourth of which said lands shall be applied by said company to aid in the construction of said road above the city of Des Moines: *And provided further*, That if the said Des Moines Navigation and Railroad Company shall ratify and accept these propositions for a contract by filing a written acceptance thereof in the office of the Secretary of State within sixty days from the passage of this joint resolution, then this contract shall be in force and bind both of the parties thereto.

Approved March 22d, 1858.

207 *Pl'ff's Exhibit O.—S. Sibley, Com'r.*

GENERAL LAND OFFICE,
December 2nd, 1853.

SIR: Assisted by the information contained in your letter of the 7th ult., I have ascertained that there are a number of tracts of land selected by the State of Iowa under the 8th section of the act of 4th September, 1841, situated within the limits of the Des Moines River grant under which (the grant) the State is entitled to them, and you are advised that when the grant is adjusted, which will be in a short time, so far as the surveys have progressed, the approval of the selections so situated will be rescinded and the State authorized to select others in lieu thereof.

You are again advised that the books and files of this office show no military reservation on section 19, 89 N., 28 W., and upon inquiry at the War Department it appears that there has never been any order to reserve it. It will therefore be certified to the State under the Des Moines grant.

I am, very respectfully, your obedient servant,

CHAS. S. FRAILEY
Acting Commissioner.

GEO. GILLASPY, Esq., *Ottumwa, Iowa.*

GENERAL LAND OFFICE,
January 6th, 1854.

SIR: Herewith I inclose a copy of a list of lands falling to the State of Iowa under the act of 8th August, 1846, selected by the State under the 8th section of the act of 4th September, 1841, and approved before the grant for the improvement of the Des Moines River was adjusted as far as the townships embraced by the lists, which was approved by

the Secretary of the Interior on the 30th ultimo. The quantity of land thus approved under the act of 8th of August, 1846, is twelve thousand eight hundred and thirteen acres and fifty-one hundredth of an acre, (12, 813.51.)

These lands were selected on the 20th of July, 1850, and embraced by lists Nos. 49 to 54, inclusive, and in lieu thereof the State is entitled to select an equal quantity elsewhere.

Be pleased to acknowledge the receipt of this communication.

I am, very respectfully, your obedient servant,

JOHN WILSON, *Commissioner.*

THOMAS H. BENTON, Jr., Esq.,
Superintendent of Public Instruction, Iowa City, Iowa,

208 This indenture, made this 18th day of May, one thousand eight hundred and fifty-eight, by and between the State of Iowa, party of the first part, and the Des Moines Navigation and Railroad Company, parties of the second part, witnesseth: That the said party of the first part, for and in consideration of one dollar paid by the parties of the second part, and in pursuance of a joint resolution of the general assembly of the State of Iowa, approved the 22d day of March, 1858, does hereby sell, grant, bargain, and convey to the Des Moines Navigation and Railroad Company the following described lands, to wit: All lands granted by an act of Congress approved August 8, 1846, to the Territory of Iowa, to aid in the improvement of the Des Moines River, which have been approved and certified to the State of Iowa by the general government, saving and excepting all lands sold or conveyed or agreed to be sold or conveyed by the State of Iowa by its officers and agents, prior to the 23d day of December, 1853, under said grant, and said company or its assigns shall have right to all of said lands so herein granted to them as fully as the State of Iowa could have under or by virtue of said grant, or in any manner whatever, with full power to settle all errors, false locations, omissions, or claims in reference to the same, and all pay or compensation therefor, by the general government, but at the costs and chages of said company; and the State to hold all the balance of said lands, and all rights, powers, and privileges, under and by virtue of said grant, entirely released from any claim by or through said company. And it is understood that among the lands excepted and not granted by the State to said company are 25, 488. 87 acres, lying immediately above the Raccoon Fork, supposed to have been sold by the general government, but claimed by the State of Iowa.

To have and to hold the above-described lands, and each and every parcel thereof, with all the rights, privileges, immunities, and appurtenances of whatever nature thereunto belonging or appertaining, unto the Des Moines Navigation and Railroad Company, their successors and assigns forever in fee simple.

In testimony whereof, I, Ralph P. Lowe, governor of the State of Iowa, have caused the great seal of the State of Iowa to be hereunto affixed.

Given under my hand, at the city of Des Moines, the day and year first above written, and of the State of Iowa the twelfth year.

By the governor:

[SEAL.]

RALPH P. LOWE,
ELIJAH SELLS, *Secretary of State.*
By JNO. M. DAVIS, *Deputy.*

This is to certify that the foregoing deed was received from the

governor June 10th, 1858, and recorded in Des Moines River records, Book 'A,' pages 45 and 46, June 18, 1858.

T. S. PARVIN,
Register of the State Land Office.
D. S. WARREN, *Deputy.*

209 On 3d November, 1860, the Secretary addressed a letter to Hon. Geo. W. Jones, senator from the State of Iowa, in which he said:

SIR: I have the honor to acknowledge the receipt of your letter of this date, and have considered the same in connection with the letter of Mr Steiger, agent of the Dubuque and Sioux City Railroad Company, of the 1st instant; both relating [the] to the certification to the State of Iowa, of lists of odd-numbered sections of land within the six and fifteen mile limits of the railroad, "from the city of Dubuque to a point on the Missouri River near to Sioux City."

For your information I herewith enclose copies of my letters of the 6th September last to the Commissioner of the General Land Office, and of the 1st of October to Mr. Steiger, and in reply to your letter would state that as respects those tracts within the limits of the railroad grant which have already been certified to the State of Iowa by my predecessor, under the previous grant of 8th August, 1846, in the absence of a formal and sufficient surrender by the State of all claims under the prior grant, and a direct demand from the State authoritiea for lists under the later grant, I deem it proper to suspend action at present so far as the claims interfere. The subject of these opposing claims is involved with proposed legislation pending in Congress; and the State authorities still assert the equity of the title which has been recognized by my predecessors, though since declared to be invalid by a decision of the Supreme Court of the United States.

* * * * * * * * *

Very respectfully, your obedient servant,
J. THOMPSON, *Secretary.*

Hon. GEO. W. JONES, *of Iowa, present.*

GENERAL LAND OFFICE, *September* 25, 1862.

To his excellency the governor of Iowa:

SIR: I respectfully call your attention to my letter of the 26th June last, requesting you to furnish this office, at your earliest convenience, with a list of the tracts of land sold by the State of Iowa, under the act of Congress approved August 8, 1846, above the mouth of the Raccoon Forks of the Des Moines River, and now held by bona fide purchasers, and request compliance therewith as early as practicable.

Very respectfully, your obedient servant,
J. M. EDMUNDS, *Commissioner.*

210 GENERAL LAND OFFICE, *Oct.* 14, 1846.

GENTLEMEN: I this day forward, via Baltimore, to the care of the register and receiver at St. Louis, Missouri, one box, containing for your use 8 tract books, in which are opened the townships in your district so far as at present surveyed; two blank ones for future use, and two record books for letters; one for the register, the other for the receiver.

In the tract books have been registered the sales of land within the Iowa district, made at Dubuque and Marion, Burlington and Fairfield. Those made at the two former place have the letter "D" after the number of the certificate, those at the latter two, the letter "F."

This was done for future information, when the sales at Iowa shall have become interspersed with those now registered.

Only those declaratory statements, the time for compliance with the terms of which had not expired on the 1st of June last, have been entered; these should be entered in pencil.

211 Odd sections within the limits of the grant, for the improvement of the Des Moines River, have been marked as granted to the State, though the selections have not yet actually been made.

* * * * * * * * *

I am, very resp'y, your obtd't serv't,
(Signed) JAMES H. PIPER,
Acting Commissioner.

REGISTER & RECEIVER *at Iowa City, Iowa.*

UNITED STATES LAND OFFICE, *Des Moines, Iowa:*

I hereby certify the foregoing is a true and correct copy of a letter on file in this office, in so far as relates to lands known and designated as "Des Moines River lands," given under my hand at my office on the 25th day of October, A. D. 1869.

F. G. CLARKE,
Register of the United States Land Office at Des Moines, Iowa.

212 *Pl'ff's Exhibit P.—S. Sibley, Com'r.*

GENERAL LAND OFFICE, *August* 4, 1869.

I, Jos. S. Wilson, Commissioner of the General Land Office, do hereby certify, that the annexed copies are true and literal exemplifications from the files and records of this office.

In testimony whereof, I have hereunto subscribed my name, and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[L. S.] JAS. S. WILSON,
Commissioner of the General Land Office.

213 *Affidavit required of the pre-emption claimant.*

I, Hannah Riley, claiming the right of pre-emption under the provisions of the act of Congress, entitled "An act to appropriate the proceeds of the sale of the public lands, and to grant pre-emption rights," approved Sept. 4, 1841, to the northwest quarter of section number 33, of township number 89 north, of range number 28 west, subject to sale at Fort Dodge, Iowa, do solemnly swear that I have never had the benefit of any right of pre-emption under this act; that I am not the owner of three hundred and twenty acres of land in any State or Territory of the United States, nor have I settled upon and improved said land to sell the same on speculation, but in good faith to appropriate it to my own exclusive use or benefit; and that I have not, directly or indi-
214 rectly, made any agreement or contract, in any way or manner, with any person or persons whatsoever, by which the title which I may acquire from the government of the United States should inure, in whole or in part, to the benefit of any person except myself.

her
HANNAH + RILEY.
mark.

I, Chas. B. Richards, of the land office at Fort Dodge, do hereby certify, that the above affidavit was taken and subscribed before me, this 30th day of May, A. D. 1862.

CHAS. B. RICHARDS, *Register.*

215 *Pre-emption of Hannah Riley.*

I, John M. Stockdale, having been first duly sworn according to law, do depose and say that I am acquainted with Hannah Riley, the person pre-empting the northwest qr. sec. 33, 89, 28. I know the land, and that she has resided thereon since the early spring of 1856. In April of that year I came to Fort Dodge. I know that Wm. H. Merritt, the first register in the Fort Dodge land office, constantly and persistantly refused to allow any claimant an odd section within 5 miles of the Des Moines River in this land district, to file their declaration to claim the same as a pre-emption. I have repeatedly talked with him myself on the subject. I was his successor, and for a time followed in his footstep in the office in relation to those "river lands." But I held, at the same time, that the bona fide settlers on said land had a legal right to
216 file and prove up, and I ultimately allowed Mrs. Riley and several others to file, and wrote urgently an official communication to the department at Washington showing, as I conceived, that settlers upon lands known as "river grant lands" were deprived by the government of their legal and equitable rights.

Mrs. Riley and many others would have filed upon their pre-emption claims, had not the government registers at Fort Des Moines, and then at Fort Dodge, given them an absolute denial.

JOHN M. STOCKDALE.

Subscribed and sworn to before me this 30 day of May, A. D. 1862.

CHAS. B. RICHARDS,
Register.

217 *Pre-emption of Hannah Riley.*

I, John M. Hepley, first duly sworn according to law, do depose and say: I know that Hannah Riley has resided on the northwest qr. of section (33,) thirty-three, T. 89, R. 28 W., since the first of August, A. D. 1855. I saw the house and improvement on said land at that date, and know that Hannah Riley resided in the house on the land. The house is built of logs, and is about 18 by 20 to 24 feet. It was finished up comfortably in the fall of A. D. 1855. There was a small lot, of an acre or more, fenced on the land early in the spring of 1856, and planted in potatoes, cabbage, &c., &c., say in April of that year. During the month of June she had plowed on said land from 8 to 10 acres, fenced and planted in corn. She has gone on improving and raising a crop every year since, until she now has 80 acres under fence and good
218 cultivation. She has a stable, shed, and corn-crib, and smoke-house. I should say that all the improvements which she now has on said land have cost her at least one thousand dollars. Hannah Riley is a widow woman, and the head of a family consisting of herself and three children. She is now residing on said land, in said house, and has been constantly since August, 1855. I am well acquainted with her, and know the land, having been at Fort Dodge in the regular army, and having resided in the vicinity since the army left. I am now sherif of Webster County. I know that Mrs. Riley has always claimed and regarded this land as hers by pre-emption claim.

JOHN M. HEPLEY.

Subscribed and sworn to before me this 30 day of May, A. D. 1862.

CHAS. B. RICHARDS,
Register.

219 [Military bounty land act of March 3, 1855.]

FORT DODGE, REGISTER'S OFFICE, *May* 30, 1862.

Military land warrant No. 99769, in the name of Asahel Bingham, has this day been located by Hannah Riley upon the northwest quarter of section 33, in township 89 N., of range 28 W., subject to any pre-emption claim which may be filed for said land within forty days from this date.

CHAS. B. RICHARDS,
Register.

Contents of tract located, 160 acres.

219*a* [Military bounty land act of March 3, 1855.]

Land warrant No. 99769.—*Register & receiver's No.* 10736.

LAND OFFICE, FORT DODGE, *May* 30, 1862.

We hereby certify that the attached military bounty land warrant No. 99769 was on this day received at this office, from Hannah Riley, of Webster County, State of Iowa.

CHAS. B. RICHARDS,
Register.
CHAS. POMEROY,
Receiver.

Indorsed: Pre-emption act of 1861. Approved 6th Oct., '63.

I, Hannah Riley, of Webster County, State of Iowa, hereby apply to locate, and do locate, the northwest quarter of section No. (33) thirty-three, in township No. eighty-nine (89,) north, of range No. twenty-eight (28) west, in the district of lands subject to sale at the land office at Fort Dodge, Iowa, containing 160 acres, in satisfaction of
219*b* the attached warrant numbered 99769, issued under the act of March 3, 1855.

Witness my hand this 30 day of May, A. D. 1862.

her
HANNAH + RILEY.
mark.

Attest:
CHAS. B. RICHARDS, *Register.*
CHAS. POMEROY, *Receiver.*

I request the patent to be sent to ———————

LAND OFFICE, FORT DODGE, *May* 30, 1862.

We hereby certify that the above location is correct, being in accordance with law and instructions.

CHAS. POMEROY, *Receiver.*
CHAS. B. RICHARDS, *Register.*

219*c* The United States of America to all to whom these presents shall come, greeting:

Whereas in pursuance of the act of Congress approved March 3, 1855, entitled "An act in addition to certain acts granting bounty land to certain officers and soldiers who have been engaged in the military service of the United States," there has been deposited in the General Land Office warrant No. 99769 for 160 acres, in favor of Asahel Bingham, private in Captain Hill's company, Vermont militia, war 1812,

with evidence that the same has been duly located upon the northwest quarter of section thirty-three, in township eighty-nine north, of range twenty-eight west, in the district of lands subject to sale at Fort Dodge, Iowa, containing one hundred and sixty acres, according to the
219d official plat of the survey of the said land returned to the General Land Office by the surveyor general, the said warrant having been assigned by the said Asahel Bingham to Hannah Riley, in whose favor said tract has been located.

Now know ye that there is therefore granted by the United States unto the said Hannah Riley, as assignee as aforesaid, and to her heirs, the tract of land above described, to have and to hold the said tract of land, with the appurtenances thereof, unto the said Hannah Riley, as assignee as aforesaid, and to her heirs and assigns forever.

In testimony whereof, I, Abraham Lincoln, President of the United States of America, have caused these letters to be made patent, and the seal of the General Land Office to be hereunto affixed.

Given under my hand, at the city of Washington, the fifteenth day of October, in the year of our Lord one thousand eight hundred
219e and sixty-three, and of the independence of the United States the eighty-eighth.

By the President:

ABRAHAM LINCOLN,
By W. O. STODDARD, *Sec'y.*
J. N. GRANGER,
Recorder of the General Land Office.

Recorded vol. 500, page 197.

219f

220 *Pl'ff's Exhibit Q.—S. Sibley, Com'r*

[Copy.]

Articles of incorporation of the Des Moines Navigation and Railroad Company.

"DE MOINE NAVIGATION AND RAILROAD COMPANY,"
Ottumwa, June 22, 1854.

I certify that the annexed paper, marked "A," is a true copy of the "articles of incorporation" of the "De Moine Navigation and Railroad Company," (a corporation formed under the code of Iowa,) of which "article" a record is made in the recorder's office of Wapello County, and a publication made in the "Courier" newspaper, published in Ottumwa,* the copy hereto annexed being designed for record in the secretary's office of the State of Iowa, as required by the code.

221 A copy of the seal of the company is hereto annexed (above.)

HENRY O'RIELLY,
Secretary of the "De Moine Navigation and Railroad Company."

222 *"A."—Referred to in the foregoing certificate.—Article of incorporation under the code of Iowa.*

In pursuance of the provisions of chapter forty-three of title ten of the code of Iowa, entitled "Corporations for pecuniary profit," approved

*To which publication the name of Orville Clark as president, and Henry O'Rielly as secretary, are appended.

February 5th, 1851, the undersigned and their associates adopt the following article of incorporation, to wit:

1. The principal object and business of the corporation hereby intended, is to improve the navigation of the Des Moines River by means of dams, and locks, and canals, and otherwise as may be found expedient and proper to effect the object, and to construct railroads connected with or separate from the same, as may be deemed advisable.

223 2. The corporate name shall be the "De Moine Navigation and Railroad Company."

3. The capital stock of the company shall be three millions of dollars; its principal place of transacting business Ottumwa, with an office, if necessary, at Keokuk and Fort De Moine and New York, or either, as notice shall be given. The shares of stock representing the said capital and the corporate property of the said company, to be one hundred dollars each, transferable as provided in the by-laws of the said company, five per cent. to be paid on subscription, and subject to calls from time to time as may be necessary in transacting the business of the said company, and as provided for in the by-laws of said company.

224 4. The corporation to commence on the sixth day of May, 1854, and to continue for fifty years from that date unless sooner dissolved under and in pursuance of the laws of the State of Iowa.

5. The highest amount of indebtedness or liability which the said corporation shall at any time subject itself shall not exceed two millions of dollars.

6. The private property of stockholders or members of the corporation shall not be liable for corporate debts.

7. The officers or persons who shall conduct the affairs of the company shall be the president and board of directors of the said company.

8. The directory shall consist of nine persons. The first direc-
225 tors shall hold their offices respectively for one year from the first day of July, 1854, after which time they shall be elected by the stockholders annually.

9. In case of resignation or death of any director, or of vacancy from other causes, the remaining directors shall fill the vacancy for the remainder of the term.

10. The president and secretary to be designated by the board of directors, and to hold the said offices during the term of office of a director.

Dated May 6, 1854.

(Signed) ORVILLE CLARK.
JOHN STRYKER.
EDWIN C. LITCHFIELD.
B. C. WHITTEMORE.
PORTER KIBBEE.
HENRY TEN EYCK.
HENRY O'RIELLY.
NELSON P. STEWART.
E. B. LITCHFIELD.
A. HUNT.

Filed July 7, 1854.

GEO. W. McCLEARY,
Sec'y of State.

226 STATE OF IOWA,
Office of Secretary of State:

I, Ed. Wright, secretary of state of the State of Iowa, do hereby cer-

tify that the foregoing is a correct copy of the official article of incorporation, as the same appears on file in this office.

In testimony whereof I have hereunto set my hand and affixed the official seal of the State of Iowa.

Done at Des Moines this third day of July, A. D. 1868.

[L. S.] ED. WRIGHT,
Secretary of State State of Iowa.

228 *Pl'ff Exhibit R.—S. Sibley, Com'r.*

OFFICE OF THE DE MOINE NAV. & R. R. CO.,
18 *William Street, New York, April* 15, 1858.

At a meeting of the board of directors of the De Moine Navigation and Railroad Company held at their office in the city of New York on Thursday, the 15th day of April, 1858, the following preamble and resolutions were adopted, to wit:

Whereas, by joint resolution of the general assembly of the State of Iowa, approved the 22d day of March, 1858, the said general assembly did enact as follows, viz:

"JOINT RESOLUTION containing propositions for a settlement with the De Moine Navigation and Railroad Company.

"Whereas the De Moine Navigation and Railroad Company have heretofore claimed, and do now claim, to have entered into certain contracts with the State of Iowa, by its officers and agents, concerning the improvement of the Des Moines River in the State of Iowa; and whereas disagreements and misunderstandings have arisen, and do now exist between the State of Iowa and said company, and it being conceived to be to the interests of all parties concerned, to have said matters and all matters and things between said company and the State of Iowa settled and adjusted: Now, therefore,

"*Be it resolved by the general assembly of the State of Iowa*, That for the purpose of such settlement, and for that purpose only, the following propositions are made by the State to said company: That the said company shall execute to the State of Iowa full releases and discharges of all contracts, agreements, and claims with or against the State, including rights to water rents, which may have heretofore or do now exist, and all claims of all kinds against the State of Iowa and the lands connected with the Des Moines River improvement, excepting such as are hereby by the State secured to the said company, and also surrender to said State the dredge-boat and its appurtenances belonging to said improvement; and the State of Iowa shall, by its proper officer, certify and convey to the said company all lands granted by an act of Congress, approved August 8, 1846, to the then Territory of Iowa, to and in the improvement of the Des Moines River, which have been approved and certified to the State of Iowa by the general government, saving and excepting all lands sold or conveyed, or agreed to be sold or conveyed, by the State of Iowa by its officers and agents, prior to the 23d day of December, 1853, under said grant, and said company or its assignees shall have right to all of said lands so herein granted to them as fully as the State of Iowa could have, under or by virtue of said grant, or in any manner whatever, with full power to settle all errors, false locations, omissions, or claims in reference to the same, and all pay or compensation therefor by the general government, but at the cost and charges of said company, and the State to hold all the balance of said lands, and all rights, powers, and privileges under and by virtue of

said grant, entirely released from any claim by or through said company, and it is understood that among the lands excepted and not granted by the State to said company are 25,487 87-100 acres lying immediately above Raccoon Forks, supposed to have been sold by the general government, but claimed by the State of Iowa: and it is further agreed that said company release and convey to the State of Iowa, or its representatives, all materials of every kind and description, prepared for, or intended for the construction of locks or dams in said improvement, wheresoever the same may be, and the State shall take the existing contracts, but no other liabilities of any name or nature, excepting as herein provided for, constructing or repairing the works on said improvement at Keosauqua, Bentonsport, Plymouth, and Croton, and no other or different, with all liabilities and advantages arising upon said contracts and percentage retained thereon, excepting that the company shall pay all estimates for work done or material prepared up to this date, beyond the percentage retained from the contractors under their agreements, and the said company shall be discharged from all claims against the State or the said improvement, or any of its officers or agents, arising from or growing out of any agreement or liability prior to the 9th day of June, 1854, and said company shall be discharged from all liability for the claims of the officers of the State for services or salaries. The said company hereby agree to pay the State the sum of twenty thousand dollars, which sum shall be paid to the order of the commissioner of the Des Moines River improvement, as fast as he may require the same to liquidate existing liabilities against said Des Moines River improvement, on thirty days' notice given to said company, at their office in the city of New York, and any bonds or certificates of indebtedness against said improvement, not exceeding in amount the sum of eleven thousand dollars, which are now due and unpaid, are to be received in part payment of said sum of twenty thousand dollars: *Provided*, That no liabilities assumed by the State in this contract shall be a charge against the State in her sovereign capacity, but all such liabilities, if any, shall be chargable upon and payable out of the remaining lands belonging to the Des Moines River grant: *And provided also*, That if Congress shall permit a diversion of the lands of said Des Moines River grant, or the title thereto shall become vested in the State, so as to become subject to grant, the said remaining lands, after the payment of all the liabilities as aforesaid, against said improvement and the completion of such locks and dams in the Des Moines River as the legislature shall direct, shall be granted to the Keokuk, Fort Des Moines and Minnesota Railroad Company, to aid in the construc-
229 tion of a railroad up and along the valley of the Des Moines River, upon such terms and in such manner as the legislature may provide, one-fourth of which said lands shall be applied by said company to aid in the construction of said road above the city of Des Moines: *And provided further*, That if the Des Moines Navigation and Railroad Company shall ratify and accept these propositions for a contract, by filing a written acceptance thereof in the office of the secretary of state within sixty days from the passage of this joint resolution, then this contract shall be in force and bind both of the parties thereto.

(Signed) STEPHEN B. SHELLEDY,
Speaker of the House of Representatives.
ORAN FAVILLE,
President of the Senate.

Approved March 22d, 1858.

RALPH P. LOWE.

STATE OF IOWA, *ss:*

I, Elijah Sells, secretary of state of the State of Iowa, hereby certify that the foregoing is a true copy from the original roll on file in my office.

In testimony whereof, I have hereunto set my hand and affixed the great seal of the State of Iowa. Done at Des Moines, this 22d day of March, 1858.

[SEAL.] (Signed) ELIJAH SELLS.

Resolved, That the propositions and conditions of the above-recited joint resolutions be, and they are hereby, ratified and accepted by the De Moine Navigation and Railroad Company, and that the president of the company cause a certified copy of this resolution, under the corporate seal, to be filed in the office of the secretary of state of the State of Iowa.

Resolved, That the president be, and he is hereby, authorized to execute under the corporate seal of the company, the necessary and proper releases and discharges in conformity with the provisions and conditions of the said joint resolutions of the general assembly of the State of Iowa, and to cause the same to be filed in the office of the secretary of state of the State of Iowa.

I hereby certify that the foregoing is a true copy of the resolutions of the De Moine Navigation and Railroad Company, adopted by the board of directors of said company at a meeting held on the 15th day of April, 1858, and duly recorded upon their book of minutes.

In witness whereof, I have hereunto affixed the corporate seal of the said company, together with my signature as its president, and have caused the same to be witnessed by the secretary of the said company.

(Signed) R. S. BURROWS,
President De Moine Nav. & R. R. Co.

JAS. C. PATTERSON,
Secretary De Moine N. & R. R. Co.

STATE OF IOWA, *Office of Secretary of State:*

I, Ed. Wright, secretary of state of the State of Iowa, do hereby certify that the foregoing is a correct copy of the original instrument on file in this office.

In testimony whereof, I have hereunto set my hand and affixed the official seal of the State of Iowa this 3d day of July, A. D. 1868.

[SEAL.] ED. WRIGHT,
Secretary of State, State of Iowa.

230 *Pl'ff's Exhibit S.—S. Sibley, Com'r. Contracts of the De Moine Navigation and Railroad Company.*

Articles of agreement made and entered into this 9th day of June, 1854, by and between the Des Moines Navigation and Railroad Company, a corporation formed under the laws of the State of Iowa, party of the first part, and the State of Iowa, by Josiah H. Bonney, commissioner of the Des Moines River improvement, by and with the consent and approval of Uriah Biggs and George G. Wright, assistant commissioners, in the State of Iowa, and in behalf of the State of Iowa, party of the second part, witnesseth:

That, whereas the commissioners before named have heretofore entered into an agreement with Henry O'Reilly, bearing date the 17th day of December, eighteen hundred and fifty-three, and an additional

and explanatory agreement, dated April 18th, 1854, for the completion of the Des Moines River improvement; and which said agreements, contracts, and all rights of said Henry O'Reilly, by and with the consent and approval of both parties thereto, have been assigned and transferred to and for the benefit of the Des Moines Navigation and Railroad Company; and in pursuance of a stipulation of the said party of the second part, made simultaneously with said agreements, and to carry the same fully into effect.

The said parties for the purpose of simplifying and more fully explaining the said contracts and agreements, the said Des Moines Navigation and Railroad Company, of the first part, and the said Josiah H. Bonney, commissioner, with the consent and approval of Uriah Biggs and George G. Wright, assistant commissioners, of the second part, hereby enter into the following agreement:

First. The said party of the first part doth hereby covenant and agree, to and with the party of the second part, for the considerations hereinafter named, to make and finish the Des Moines River improvement, from the Mississippi River to Raccoon Forks, on said Des Moines River. The said improvement to be made according to the plan
231 and specifications of the engineer of said improvement, heretofore made and determined upon, as to style, character, and quality of work, from the town of St. Francisville, on said river, to said Raccoon Forks, except that the said party of the first part may improve the character and style of the work, and enlarge the size of the locks, as hereinafter provided; and so far as relates to the said work below the said town of St. Francisville, the same shall be done and completed upon such plan as may be determined upon by the engineer employed on said work, in connection with Wm. J. McAlpine, late State engineer of the State of New York, as consulting engineer, or such other consulting engineer as the said party of the first part shall select for that purpose; provided that all said work shall be done and completed in a substantial manner, so as to secure the navigation of said river to the fullest extent, and for the longest period each year practicable; and provided, further, that the said party of the first part shall not be required to expend below the said town of St. Francisville, in said improvement, more than the sum of three hundred thousand dollars; and provided, also, that during the progress of the work, the said party of the first part, their successors or representatives, by and with the consent of the engineer in charge of the work, may alter or change the style and character of the work, or locations of either of the locks, dams, or canals, or all of them, or any part thereof; provided no change shall be made authorizing an inferior kind of work, or the use of less valuable materials, or lessening the capacity of said locks, or of any piece of canal necessary for the use of any of said locks, or diminishing in usefulness or value the said general improvement; and in case of any disagreement between the engineer in charge of said work, and the party of the first part, or their successors, in reference to the proposed sites or locations, or modes of constructing the locks, dams, or otherwise, the matters in difference shall be submitted for arbitration to a consulting engineer, or other person to be agreed upon by both parties to this contract, whose decision upon the points submitted shall be conclusive upon all parties.

Second. The said party of the first part further agrees, to and with the party of the second part, to complete all said work from the river Mississippi to said Raccoon Forks, on or before the first day of July, 1858; and, in like manner, undertakes and covenants to complete at

least one-fourth part of said work each and every year, commencing on the first day of July, 1854.

Third. The said party of the first part doth further covenant
232 and agree with the said party of the second part to pay and discharge any and all debts, of every kind and description, outstanding against the said Des Moines River improvement on the 23d day of December last, within ninety days from the date of this contract; provided that the whole amount of said debts shall not exceed the sum of sixty thousand dollars; and, to meet and discharge said liabilities, the said Des Moines Navigation and Railroad Company have deposited with, and paid over to the said Josiah H. Bonney, commissioner, the sum of fifty-five thousand dollars; and it is hereby agreed that the said party of the first part shall have and is hereby entitled to all moneys due and owing to the said improvement from the general government, and all claims and demands against the said general government, and all sums of money due from any other source, as also all sums of money now in the hands of said register, or that were in his hands on the 17th day of December last, or that may have been received by him, or have been in his hands on account of said improvement, at any time since the said 17th day of December, 1853; and the said sums of money in the said register's hands on the said 17th day of December, or that may have been in his hands at any time since, may be applied to the payment of any portions of the above-named debts, or for any debts incurred since the 17th day of December, in prosecuting the said improvement, and shall be, by the said register, accounted for to the [the] said Des Moines Navigation and Railroad Company.

Fourth. All claims by mill owners, or other persons, for damages or rights of way, or other necessary privileges in the prosecution of said work, as well as all other claims for damages, shall be settled for by the said party of the first part, and on such terms as they may deem best; and the title to all such rights of way so procured shall be taken and vest in the State of Iowa, subject to the rights of the party of the first part therein, as in this contract mentioned; and all work now progressing under contracts existing on the said 17th day of December last, at the dams and locks at Belfast, Farmington, and Keosauqua, shall progress and be carried on under and according to the terms of the respective contracts then existing in relation thereto, if the said contractors shall so elect, and shall be paid for by the said party of the first part, on the estimates made by the engineer from time to time.

Fifth. The said party of the first part doth hereby further agree and covenant, that the salaries of the commissioner and register,
233 of said improvement, and the salaries of the engineer, and such assistants as may be required in the prosecution of said work, shall by them be paid from time to time, as the same shall become due and payable; provided, that the salaries of the commissioner and register of said improvement shall not be greater than that now fixed by law, and the salaries of the engineer and assistants shall be such as may be agreed upon by said commissioner, by and with the advice and consent of the party of the first part.

Sixth. The said party of the first part further agrees and covenants, that in all cases where bona fide settlement was made on any of the lands belonging to said improvement, which were unsurveyed on the 24th day of January, 1853, the settlers on said lands so unsurveyed shall have the right to purchase at any time within one year, after said lands are surveyed, their said lands, under the rules and regulations

established by the commissioner and register, at the rate of one dollar and twenty-five cents per acre; but no such settler or claimant shall be entitled so to purchase more than one hundred and sixty acres.

Seventh. The said improvement shall be prosecuted in such manner as not to unnecessarily impede the navigation of said river during the construction of said work; but in all cases the locks shall be constructed and finished, so as to allow the passage of boats and other water crafts, before any material obstructions shall be created by the erection of dams.

Eighth. The said party of the second part, on their part, hereby covenants and agrees, with the said party of the first part, to sell and convey to the said party of the first part, in manner and upon the terms hereinafter provided, all of the lands donated to the State of Iowa, for the improvement of the Des Moines River, by act of Congress of August 8, 1846, which the said party of the second part had not sold up to the 23d day of December, 1853; for which said lands the said party of the first part covenants and agrees in manner and form, as fixed by this agreement, to pay the sum of thirteen hundred thousand dollars.

Ninth. The said party of the second part hereby transfer and assign to, and hereby invest in, the said party of the first part, any and all stone, timber, and all other materials of every kind and description, belonging to said improvement, now remaining along the line of said work, or elsewhere, and hereby give said party of the first part
234 full power and authority to use and control the same as they may deem proper, in connection with said improvement.

Tenth. The said party of the second part further covenants and agrees that the parties of the first part, their successors and assigns, shall, from the date hereof, have full possession and control of all locks and dams now completed, and shall from time to time, as each lock and dam is completed, have the control and possession thereof; and when the whole work is completed, shall have the entire and exclusive possession and control thereof for forty years, from the 1st day of July, 1858, and shall from this date have the right to control and receive as herein provided, all tolls and water rents accruing from said improvement, and to make such contract or contracts, or agreements, and fix such rates in relation thereto, as they may deem proper; provided, always, that this grant of said tolls and water rents, is made subject to the following express conditions:

1st. That the tolls to be taken and received by the said party of the first part shall in no event exceed the rates of tolls allowed and chargeable on the Monongahela improvement in the State of Pennsylvania, on the 5th day of February, 1851.

2d. All contracts now outstanding, between the commissioner and register, or either of them, with reference to the water rents, with any individual or individuals, shall be carried out by the said party of the first part. And nothing herein contained shall be so construed as to interfere with said contracts; but the money arising therefrom shall belong to, and become the property of the said party of the first part, in the same manner as all other water rents, as fixed by this contract.

3d. All moneys arising from said tolls and water rents on the entire work, after deducting the necessary contingent expenses attending the superintendence of the locks, and the collection of said rents and tolls, and the repairs of said works during the time fixed for the completion of said works, shall be reported to the register of the Des Moines River improvement semi-annually, and shall be expended by the said parties of the first part in said improvement; but such sums shall not be taken

into the estimates upon which lands are to be transferred to the party of the first part but shall constitute a portion of the one million three hundred thousand dollars to be expended by the party of the first part, and of the aggregate sum expended by the party of the first part in said improvement.

4th. At the expiration of said forty years, the said works shall
235 revert to, and become the property of, the State of Iowa, and shall be in ordinary repair for their respective uses.

Eleventh. The said party of the second part hereby covenants and agrees that whenever the said party of the first part shall have done work to the amount of thirty thousand dollars, according to estimates to be made by the acting engineer under the scale of prices fixed in this contract, the said party of the second part, or the then proper agent or officer or officers of the State, shall transfer and convey to the said party of the first part, or to the then register of said improvement, or such other person as the party of the first part may direct, an amount in value of the lands belonging to said improvement, valued at one dollar and twenty-five cents per acre, to the amount of said thirty thousand dollars, deducting fifteen per cent., and so on in the same manner on each estimate of thirty thousand dollars, until work shall be done to the amount of thirteen hundred thousand dollars, if so much land shall remain unsold from and after the said 23d day of December, A. D. 1853, or until said work shall be completed. And upon the expenditure of said thirteen hundred thousand dollars, or the completion of said works, all of said lands remaining unconveyed, if any, shall be transferred and conveyed to the said party of the first part, or their assigns, or to such person or persons as they shall direct. And all moneys paid by the party of the first part to the register of the Des Moines River improvement, or to the commissioner thereof, in payment of the liabilities resulting from the former prosecution of the work by the State of Iowa, shall, without requiring any estimate to be made thereof by the engineer, be deemed to be a portion of the sums expended in the said improvement by the said party of the first part. And the said register shall convey to the party of the first part, or such person or persons as they shall designate, a quantity of land, estimated at one dollar and twenty-five cents per acre, equal to the amount of cash thus paid; and the said sums thus paid shall form part of the thirteen hundred thousand dollars mentioned in this contract.

Twelfth. For the purpose of determining the lands which the said party of the first part shall have the right to select on estimates made, as contemplated by the last section, it is agreed that, within a reasonable time after concluding this contract, the said party of the first part shall have all the unsold lands in this contract mentioned divided into three classes, according to value, and thereafter they shall take
236 one-third of such amounts as they may from time to time be entitled to from each class. And for all moneys expended until such classification, they shall have the right to take said lands, us they remain unsold, commencing with the lands lowest down on the river, making no distinction in quality or value. And for the purpose of classifying said lands, unless a commissioner is mutually agreed upon, each party may choose or select a commissioner, who shall mutually agree upon such classification. And in case of disagreement, the said two commissioners shall select a third, and the decision of a majority shall be conclusive. The expenses of said commission shall be defrayed by the party of the first part; and the records of such classification, duly certified by the said commissioners, or a majority of them, shall be filed

with the register of the Des Moines improvement, for reference by and government of both parties under this contract. The river land office, for the sale of lands belonging to the Des Moines improvement, having, in accordance with the contract with Henry O'Reilly heretofore referred to, been closed on the 23d day of December last, the said office shall remain closed for the entry or sale of lands, excepting by the direction of the party of the first part.

Thirteenth. It is understood and agreed between the said parties, that in the conveyance of lands as contemplated by this contract, all moneys advanced by said parties of the first part, for salaries and pay of officers or agents or servants, for rights of way, damages to mill owners, and other matters not covered by actual works done on the improvement, shall be included in making estimates; but the moneys that were in the hands of the register on the 17th day of December last, and the value of the materials on hand, (which shall be used,) shall not be included for estimates.

Fourteenth. And it is also agreed and covenanted, between the parties hereto, that the following shall be the prices for the different items of work mentioned, upon which the engineer is to make his estimates, and by which the parties are to be governed in the conveyance of land, and other purposes contemplated in this agreement—adding twenty per centum to the aggregate amount of all estimates, to cover all contingencies—to wit:

Preparing lock foundation, $3,000.
Masonry in lock walls, $5 per perch.
Do in side walls, $3 50 per perch.
Hydraulic cement, $3 per barrel.
237 Lock gates and all fixtures, $2,500.
Square timber, 14 cents per foot.
Oak plank, $2 25 per 100 feet, board measure.
Crib-filling in dams and abutments, $1 per perch.
Stone protection, rip-rap, $1 15 per perch.
Embankments around locks, 20 cents per yard.

Excavation on canals, where the dirt is wasted, 20 cents per yard; when the dirt is used in embankments, 15 cents per yard for the excavation, and 15 cents per yard for the embankment.

Excavation of rock under water, $2 per perch.
Excavation of rock above water, $1 per perch.
Iron bolts, spikes, and other irons, 8 cents per pound.
Round timber, 11 cents per foot.
Excavations for foundations, 40 cents per yard.

And all items not embraced and enumerated above shall be rated according to the estimates of the engineer in charge.

The engineer or engineers in charge of said work shall, from time to time as shall be found convenient, be appointed by the joint assent of both parties hereto.

Fifteenth. All the work on said improvement during the progress thereof, shall be and remain under the general supervision of the board of public works and engineers, except as herein modified; and all works, as far as practicable, shall be so conducted as to perfect the navigation in a continuous line, from the mouth of the river upwards, to Fort Des Moines.

Sixteenth. That for the purpose of providing more effectually for securing the improvement of the Des Moines River to the greatest practical extent, and at the earliest practicable period, the party of the first part shall have the right to such tolls and water-rents as they can

collect on the river above Fort Des Moines, for a similar period to that provided for the use of the river below Fort Des Moines under this contract; provided, they shall, within eight years, at their own expense, improve the river, so as to render it navigable for boats of at least two two hundred tons burthen, to the Lizzard Forks, or Fort Dodge, or to such other point above Fort Des Moines, as they may find it practicable; provided further, that no higher average of tolls shall be charged on vessels or rafts, or articles transported than the maximum allowed
238 on the section of the river between the Fort Des Moines and the Mississippi River; and provided also, that at the end of said period in this section first named, the improvements on said upper region of the river, above Fort Des Moines, shall be surrendered to and become the property of the people of the State of Iowa, upon the payment to the party of the first part, or their successors, of such sum as the said improvement may be worth at the time, as determined by appraisers, to be mutually agreed upon.

Seventeenth. The same right which is now, or may hereafter be given by law to the said board of public works, to condemn lands in procuring right of way for the location of dams, locks, water-power, and canals, shall be and is hereby given to the party of the first part; and in procuring the same, they may, if necessary, use the name of the said board of public works, or that of the State; and the board shall assist therein, in accordance with the general spirit of this contract.

Eighteenth. The said party of the first part hereby covenants and agrees that the State shall not be liable to them in this contract, but will look alone to the funds belonging to and arising from the said improvement, for compensation as hereinbefore mentioned; and the said party of the second part does hereby agree that the indebtedness named in the third section of this contract shall exceed the sum of sixty thousand dollars, the time for the use of said improvement by said company shall be extended one year beyond the time named in the tenth section of this contract, to wit, the first day of July, in the year 1899, (eighteen hundred and ninety-nine.)

Nineteenth. The fifteen per cent. reserved in the conveyance of land by section eleventh of this contract shall be esteemed and taken as a part of the thirteen hundred thousand dollars agreed to be paid by the said party of the first part in this agreement.

In witness whereof, the parties of the first part, by their president and secretary, have hereunto subscribed their names and placed their corporate seal; and the party of the second part, by the commissioners aforesaid, have also affixed their names and seals the day and year aforesaid.

{ OFFICIAL SEAL OF THE DES MOINES NAVIGATION AND R. R. COMPANY. }

ORVILLE CLARK, *President.*
HENRY O'REILLY,
Secretary of Des Moines Navigation and R. R. Company.
JOSIAH H. BONNEY, [SEAL.]
Commissioner of Des Moines River Improvement.
URIAH BIGGS, [SEAL.]
GEO. G. WRIGHT, [SEAL.]

239 *Supplemental agreement.*

Whereas, by the foregoing agreement, bearing date the 9th day of June, instant, the Des Moines Navigation and Railroad Company of the one part, and the State of Iowa, by Josiah H. Bonney, commissioner of the Des Moines River improvement, by and with the consent and approval

of Uriah Biggs and George G. Wright, assistant commissioners of the said improvement, of the other part, have contracted and provided for the completion of the said improvement from the mouth of the said Des Moines River to the Raccoon Fork on the terms and according to the plans and specifications in the said contract provided; and it being deemed desirable to enlarge the said locks, and the capacity of such canals, as may be built in the prosecuting said improvement, under said agreement:

Now, therefore, this additional and supplementary agreement, witnesseth:

That the said Des Moines Navigation and Railroad Company, of the first part, for and in consideration of the covenants herein contained, do covenant and agree with the State of Iowa, by the commissioner and assistant commissioners hereinbefore mentioned, to build the said locks provided to be built in the said agreement of the ninth of June, instant, two hundred feet long, in the same proportion that the present locks and plans provide for their being one hundred and seventy-five feet long; and that they shall be so constructed as to secure four and one-half feet of water on the lower mitre sill, and to secure a navigation of at least four and a half feet of water. And the canals shall be so constructed as to give at least four and a half feet of water, with suitable dimensions for boats or vessels navigating the same, with such depth of water at the locks and in the canals, and in all other respects the said work is to be done under and in pursuance of the terms and conditions of the said contract of the ninth of June, instant.

And the said party of the second part, the said State of Iowa, by the commissioner and asssistant commissioners aforesaid, do covenant and agree with the party of the first part, that the said party of the first part shall have and enjoy the said work, its use, rights and
240 privileges, its tolls, water rents, and franchises, for the term of sixty years from the first day of July, 1858, fully and absolutely, as is provided in the said agreement of the ninth of June, instant, for forty years, and on the same terms therein provided; saving and excepting that, from and after the first day of July, (1913,) one thousand nine hundred and thirteen, until the first day of July, (1918,) one thousand nine hundred and eighteen, the said party of the first part shall pay into the treasury of the State of Iowa seven per centum of the nett amount of the tolls and water rents received on the said improvement, from the said Raccoon Fork to the mouth of the said Des Moines River, after deducting all expenses of repairs, superintendence, and other proper charges.

In testimony whereof, the said party of the first part, by their president and secretary, have hereunto subscribed their names and affixed their corporate seal; and the party of the second part, by the commissioners aforesaid, have subscribed their names and affixed their seals this ninth day of June, 1854, (one thousand eight hundred and fifty-four.)

{ OFFICIAL SEAL OF THE DES MOINES NAVIGATION & R. R. COMPANY. }

ORVILLE CLARK, *President.*
HENRY O'REILLY,
Secretary of the Des Moines Navigation and Railroad Company.
JOSIAH H. BONNEY, [SEAL.]
Commissioner, etc.
URIAH BIGGS. [SEAL.]
GEORGE G. WRIGHT. [SEAL.]

241 STATE OF IOWA, *Office of Secretary of State:*

I, Ed. Wright, secretary of state of the State of Iowa, do hereby certify that the foregoing is a correct copy of the original "articles of agreement" and "supplementary agreement" between the De Moine Navigation and Railroad Company and the State of Iowa, as the same appear on file in this office.

In testimony whereof, I have hereunto set my hand and affixed the official seal of the State of Iowa, this third day of July, A. D. 1868.

[SEAL.] ED. WRIGHT,
Secretary of State State of Iowa.

242 *Pl'ff's Exhibit T.—S. Sibley, Com.*

On the 31st December, 1868, Hon. O. H. Browning, Secretary of the Interior, on an appeal from the Commissioner of the General Land Office, made and rendered a decision, of which the following is a copy:

DEPARTMENT OF THE INTERIOR,
Washington, D. C., Dec. 31, 1868.

SIR: I return the papers which accompanied your letter of the 25th May last, in the case of Elisha Spicklemier, claiming under the pre-'mption law the N. W. q'r sec. 15, t'p 84, range 27, Des Moines, Iowa

This tract is situated "above the mouth of the Raccoon Fork, in the State of Iowa," and prior to the passage of the joint resolution of March 2d, 1861, had been certified to said State improperly by the Department of the Interior, as a part of the grant by act of Congress approved August 8, 1846, and was then "held by bona fide purchasers under the State of Iowa," and the title of the United States was, by said resolution, relinquished to said State.

Your decision in favor of Spicklemier is therefore reversed.

Very respectfully, your obedient servant,
O. H. BROWNING, *Secretary.*

COMMISSIONER OF THE GENERAL LAND OFFICE.

On the 31st December, 1868, Hon. O. H. Browning, Secretary of the Interior, on appeal from the Commissioner of the General Land Office, made and rendered a decision, of which the following is a copy:

DEPARTMENT OF THE INTERIOR,
Washington, D. C., December 31, 1868.

SIR: I have received your letter of the 12th June last, submitting the papers in the case of David C. Martz, involving the right the W. h'f N. E. q'r 17, 80, 24, Des Moines, Iowa.

This tract is situated "above the mouth of the Raccoon Fork," "in the State of Iowa," and prior to the passage of the joint resolution of March 2d, 1861, had "been certified to said State improperly by the Department of the Interior, as a part of the grant by act of Congress approved August 8th, 1846," and was "then held by bona fide purchasers under the State of Iowa," and the title of the United States was, by said resolution, relinquished to said State.

Your decision adverse to Marty is affirmed, and the papers are herewith returned.

Very respectfully, your obedient servant,
O. H. BROWNING, *Secretary.*

Hon. JOS. S. WILSON,
Commissioner of the General Land Office.

243 On the 27th February, 1869, Hon. O. H. Browning, Secretary of the Interior, on an appeal from the Commissioner of the General Land Office, made and rendered a decision, of which the following is a copy:

DEPARTMENT OF THE INTERIOR,
Washington, D. C., February 27, 1869.

SIR: I return the papers received with your letter of the 7th August last, in the case of Ezra H. Bennett, involving the right to the S. W. of S. E. q'r of sec. 1, t'p 82, range 26, Des Moines, Iowa.

This tract having been sold by the State of Iowa prior to the passage of the joint resolution of March 2d, 1861, the title of the United States was, by said resolution, relinquished to said State, and your decision adverse to the pre-emption of said Bennett is affirmed.

Very respectfully, your obedient servant,

O. H. BROWNING, *Secretary.*

COMMISSIONER OF THE GENERAL LAND OFFICE.

Cash, 21,200.

On the 27th February, 1860, Hon. O. H. Browning, Secretary of the Interior, on an appeal from the Commissioner of the General Land Office, made and rendered a decision, of which the following is a copy:

DEPARTMENT OF THE INTERIOR,
Washington, D. C., Feb. 27, 1869.

SIR: I have received your letter of the 22d December last, submitting the papers in the case of Levi Hull, involving the right to the S. E. q'r N. E. q'r and lot 1, sec. 17, 83, 26, Des Moines, Iowa.

This tract is situated "above the mouth of the Raccoon Fork," "in the State of Iowa," and prior to the passage of the joint resolution of March 2d, 1861, had "been certified to said State improperly by the Department of the Interior, as a part of the grant by act of Congress, approved August 8th, 1846," and was then held by a bona fide purchaser under the State of Iowa, and the title of the United States was, by said resolution, relinquished to said State. Your decision in favor of the pre-emption of said Hull is therefore reversed. This decision will be made applicable to all similar cases. I return the papers herewith.

Very respectfully, your obedient servant,

O. H. BROWNING, *Secretary.*

Hon. JOS. S. WILSON,
Commissioner General Land Office.

244 *Def't's Exhibit No.* 1.—*Sibley, Com'r.*

AN ACT providing for the adjustment of certain land claims with the general government.

Whereas the excess of land certified to the State, over and above the amount it was entitled to receive under the act of Congress of September 4, 1841, known as the 500,000-acre grant, has not been reconveyed nor satisfaction therefor rendered to the general government; and

Whereas the lands falling to the State, under the joint resolutions of Congress of March 3d, 1861, entitled "Joint resolutions to quiet titles

in the State of Iowa," and under the act of Congress entitled "An act confirming a land claim in the State of Iowa and for other purposes," approved July 12th, 1862, have not yet been certified or approved to the State; and

Whereas the claims of the State against the United States, arising under the swamp land grant, remain to a very great extent in an unsettled and unsatisfactory condition; and

Whereas the interests of the State and her grantees demand a speedy settlement of all said matters: Therefore,

SECTION 1. *Be it enacted by the general assembly of the State of Iowa*, That Josiah A. Harvey, register of the State land office, be, and he is hereby, appointed a commissioner on behalf of the State of Iowa, to adjust with the general government all the matters and claims aforesaid.

SEC. 2. Said commissioner shall proceed to Washington City, and present said claims to the Department of the Interior, and urge the same to settlement as early and as speedily as may be consistent with the interests of the State, and he is hereby authorized to adjust the said excess of the 500,000-acre grant, by permitting the United States to retain out of the indemnity land falling to the State under said act of Congress of July 12th, 1862, an amount equivalent to such excess: *Provided*, That nothing herein contained shall be construed to be a relinquishment of the claim of the State under the said 500,000-acre grant to the 12,813 51-100 acres selected as a part of such grant, and subsequently rejected from a supposed conflict with the act of Congress approved August, 1846, known as the Des Moines River grant, and the said commissioner is hereby instructed to secure a restoration of said selections as a part of the 500,000-acre grant, and a confirmation of the title of the State thereto, as a part of such grant.

SEC. 3. As soon as the claim or claims or matters of difference under any one of said acts shall be adjusted, said commissioner shall report the same to the census board, setting forth the terms and mode of adjustment, and said board shall examine and pass upon said adjustment so presented, and the approval of a majority of said board shall make the settlement of said matters or claims final and binding upon the State of Iowa. Such approval shall be in writing, signed by the members of said board agreeing thereto, and attested by the great seal of the State of Iowa.

SEC. 4. Said commissioner shall receive as his compensation two dollars per day for the time actually engaged in the discharge of the duties by this act imposed, with his necessary expenses in attending to the same; and his account for such time and expenses, made out from time to time, or at the conclusion of his services as such commissioner, and sworn to by him, shall be presented to the census board for allowance, and if approved and allowed by them, the auditor of State shall draw his warrant on the State treasurer, who shall pay the same out of the general revenue of the State.

SEC. 5. The amount of expenses incurred and paid out of the treasury, as provided in the preceding section, in carrying out the provision of this act, shall be approved by the census board, as nearly as practicable, pro rata, among the parties receiving, or entitled to receive, the benefits resulting from the adjustment of said several matters with the general government, and the amount thus apportioned shall be paid into the State treasury by such parties respectively before they shall be entitled to receive the proceeds or benefits of such settlement.

SEC. 6. All indemnity scrip received from the general government, and all swamp lands patented to the State, shall be conveyed to the

counties to which they belong, and all money and indemnity scrip received from the government shall be placed under the control of the board of supervisors of the several counties to which they belong, leaving the counties thereof, through their respective boards of supervisors, to settle with their grantees.

SEC. 7. This act, being deemed of immediate importance, shall take effect from and after its publication in the Iowa State Register and the Iowa Homestead, newspapers published at Des Moines.

Approved March 30th, 1866.

245 *Def't's Exhibit No. 2.—S. Sibley, Com'r.*

WASHINGTON CITY, *May* 21, 1866.

Pursuant to the authority conferred by the act of the State of Iowa, approved March 30, 1866, "for the adjustment of certain land claims with the general government," I, Josiah A. Harvey, register of the State land office, and as commissioner on behalf of the State, do hereby assent to the adjustment as herein stated, the said adjustment to be held as binding and conclusive on the said State, as provided in said act.

JOSIAH A. HARVEY,
Register of the State Land Office,
and Commissioner on behalf of the State of Iowa.

WASHINGTON CITY, D. C., *May* 23, 1866.

To the honorable census board of the State of Iowa, Des Moines:

Pursuant to the requirements of chapter 79 of the acts of the 11th general assembly, I have the honor to report that I have consumated an adjustment with the United States, of the excess of lands received by the State under the grant of September 4, 1841; also the lands confirmed to the State by the joint resolution of March 2d, 1861, and the lands falling to the State under the act of Congress of July 12th, 1862, and transmit herewith for your approval a copy of the agreement containing the terms of said adjustment.

It will be observed that the State, in this settlement, is credited with the whole amount of land in odd-numbered sections, and lying within five miles of the Des Moines, from the Raccoon Fork to the northern boundary of the State, determined to be 558,004.06 acres.

The State is then charged with the several quantities of land following, to wit:

1st. Indemnity lands selected under special certificate dated April 25th, 1863	297,603.74	acres.
2d. Remaining lands in place yet to be certified	167,109.02	"
3d. Lands in place confirmed by the joint resolution of March 2d, 1861	44,838.64	"
4th. Lands selected and heretofore certified on the East Fork of the Des Moines River, and more than five miles from the western, or main branch	11,661.80	"
5th. The excess selected and approved to the State as a part of the 500,000-acre grant under act of September 4, 1841	35,473.54	"

Making in all 556,686.74 acres, and leaving due to the State to balance the whole amount of the grant, 1,317.32 acres.

For this balance a special certificate will be issued.

The 11,661.80 acres on the East Branch of the Des Moines River, heretofore approved to the State as a part of the Des Moines River grant, and disposed of by the State as such, are held by the department under the decision of the Attorney General to be a legitimate and proper offset to so much of this grant; hence they are charged to the State in this settlement.

The 35,473.54 acres charged in excess under the 500,000-acre grant (act 1841) includes the 22,660.05 acres over and above the 500,000 acres which is embraced in the book of diagrams approved and certified to the State on the 12th of September, 1854, and which has hitherto been considered as the excess, and also the 12,813.51 acres, which were once approved as a part of the 500,000-acres grant and afterwards rejected, and approved and certified as a part of the Des Moines River grant. These lands have been known as the river school lands. Notwithstanding that they have been disposed of as a part of the Des Moines River lands by the State, said chapter 79 requires that they shall be included and certified as a part of the grant of 1841.

Deeming it my duty to carry out the provisions of the law, regardless of my personal opinion as to their correctness or propriety, I have thus included these lands, thereby increasing said excess to 35,473.54 acres, and allowed them to be deducted from the amount of the Des Moines River grant due the State, as the department had determined.

The necessary and proper lists, according to the terms of this adjustment, will be made and approved by the Secretary, and delivered to me or sent to the State.

In the preparation of these lists, all lands which appear at the General Land Office as having been selected as swamp under act of September 28, 1850, and all tracts to which pre-emption rights had attached prior to July 12, 1862, will be excluded.

246 If, however, any of the tracts thus listed and certified shall be found to have been duly selected under said act of September 28, 1850, and shall be shown by legal investigation to be swamp or overflowed, or to belong to the State by said act, the government will approve and certify other lands of like quantity in lieu thereof.

This adjustment, which I think is fair and just and should be satisfactory to the State, will, when approved by you, be a final settlement between the State of Iowa and the United States of all claims under the Des Moines River grant, as well as of the act of 1841, except so far as valid and legally subsisting adverse rights may be found to exist to any of the tracts thus approved to the State.

The excess of the 500,000-acre grant (35,473.54 acres) thus deducted, is by an agreement between the State and the Des Moines Valley Railroad Company (the beneficiary of the grant) to be credited to said company at the rate of one dollar and twenty-five cents per acre in the satisfaction of claims against the State on account of the improvement of the Des Moines River. Said company should therefore be credited on the claims they are under obligation to satisfy with the sum of $44,341.67.

My authority extends only to settlement with the general government. I have no power to carry out this agreement between the State and the company. It is but just, however, to say that this settlement has been made with the United States with the full understanding that this arrangement should be carried out.

The company, through its agents, has for a long time been laboring to this end. The opinion and decision of the Secretary of the Interior, a copy of which accompanying Mr. Kilbourne's report, made last winter,

is herewith transmitted for your examination in connection with this adjustment, is the result of their efforts.

The labors of these agents (Messrs. Kilbourne & Mason) heretofore in the premises, have greatly relieved me, and enabled me to close up the settlement thus early. It is due the company that this credit be given as soon as possible.

I hope, therefore, that this entire arrangement will meet with your approbation, and that you will, as I think you have the right, and may safely do, fully consummate and carry it out by giving said company the benefit of said credit against said claims without delay.

Very respectfully submitted,

J. A. HARVEY, *Commissioner.*

Adjustment of the Iowa Des Moines River grant under the act of July 12th, 1862, and joint resolution of March 2d, 1861.

DEBIT.	Acres.
The State of Iowa with the quantity of indemnity lands selected under special certificate, dated April 25, 1863....	297,603.74
The lands in place to be certified.....	167,109.02
The lands in place confirmed by joint resolution of March 2d, 1861.....	44,838.64
The quantity selected on the East Fork of the Des Moines River and certified to the State under the original law of August 8th, 1846.....	11,661.80
The excess selected and approved to the State under the 500,000-acre grant of 1841.....	35,473.54
	556,686.74
Remaining indemnity due the State.....	1,317.32
	558,004.06
CREDIT.	
The State of Iowa with the whole area of the grant above the Raccoon Fork.....	558,004.06

J. M. EDMUNDS,
Com'r Gen'l Land Office.

GENERAL LAND OFFICE, *May* 21, 1866.

247 DEPARTMENT OF THE INTERIOR, *May* 22, 1866.

The adjustment, as herein stated, is hereby approved.

JAS. HARLAN, *Secretary.*

THE STATE OF IOWA, *ss:*

The within adjustment, as stated, is hereby approved by us for the State of Iowa, June 20th, 1866.

W. M. STONE, *Governor,*
JAMES WRIGHT, *Sec'y State,*
JOHN A. ELLIOTT, *Auditor,*
W. H. HOLMES, *Treasurer,*
Census Board.

The item in the annexed adjustment of 35,473.54 acres being excess selections under the 500,000-acre grant to the State of Iowa, approved

to said State February 20, 1851, includes 12,813.51 acres described as follows, viz:

Parts of section.	Sec.	Tp.	R.	Acres.
W. h'f of S.W. q'r	5	87	26	80.00
All of	7	87	26	597.92
N. h'f of	9	87	26	320.00
S. h'f of	15	87	26	320.00
All of	19	87	26	609.18
N. h'f of	21	87	26	320.00
W. h'f of	23	87	26	320.00
N.W. q r	27	87	26	160.00
W. h'f of E. h'f and E. h'f of W. h'f	29	87	26	320.00
All of	31	87	26	605.92
N. fr. h'f of N.W. q'r, and lots 1, 2, 3, and 4	1	86	27	241.56
S. h'f of	11	86	27	320.00
W. h'f of S. E. q'r, and S.W. q'r	1	87	27	240.00
N.E. q'r	7	87	27	160.00
N. h'f of	9	87	27	320.00
E. h'f of	11	87	27	320.00
All of	13	87	27	640.00
Lots 3 and 4	15	87	27	113.90
All of	19	87	27	618.40
N.E. q'r and N.E. q'r of N.W. q'r	23	87	27	200.00
Lots 4, 5, 6, 7, 8, and E. h'f of S.E. q'r	23	87	27	275.50
All of	25	87	27	604.25
W. h'f of	27	87	27	320.00
All of	29	87	27	640.00
All of	31	87	27	626.44
E. h'f of	33	87	26	320.00
W. h'f of N.E. q'r, S.E. q'r, and E. h'f N.W. q'r	31	88	27	320.00
S.E. q'r	3	87	28	160.00
N.E. q'r	11	87	28	160.00
E. h'f of S.E. q'r N.W. q'r of S.E. q'r, and lots 1, 2, and 3	5	88	28	252.44
W. fr. h'f of section, and N.E. q'r	7	88	28	468.00
E. h'f of section, and N. h'f of N.W. q'r	11	88	28	400.00
S.W. q'r	13	88	28	160.00
W. h'f of S.W. q r	17	88	28	80.00
E. h'f of N.E. q'r	19	88	28	80.00
S. h'f of	21	88	28	320.00
E. h'f of	25	88	28	320.00
N. h'f of section, and S.E. q'r	33	88	28	480.00
Total				12,813.51

248 Subsequently to said approval, the above lands were deducted from the lists as improper selections because found in conflict with the river grant of 1846.

The above action of the department, rejecting the above 12,813.51 acres from the original lists, was disapproved by the Secretary of the Interior, under date of February 28, 1865; hence, and in view of the annexed adjustment, covering the whole amount of excess selected and approved in 1851, the title to said above-described lands is affirmed as enuring to the State of Iowa from the 20th February, 1851.

GENERAL LAND OFFICE, *May* 28, 1866.

The above is respectfully submitted to the Hon. Secretary of the Interior for his approval.

J. M. EDMUNDS, *Commissioner.*

DEPARTMENT OF THE INTERIOR, *May* 29, 1866.

Approved:

JAS. HARLAN, *Secretary.*

Filed in State land office, August 2, 1866.

J. A. HARVEY, *Register.*

249 The following is an adjustment or settlement made between the State of Iowa and the Des Moines Valley Railroad Company, June 20, 1866:

Whereas David W. Kilbourne, appointed and commissioned by the governor of the State of Iowa to select the indemnity lands and to procure the certification of all the lands belonging to the Des Moines River grant, under the act of Congress approved July 12th, 1862, found it necessary in order to procure the certification of the same to the State, to allow the United States government to retain thirty-five thousand four hundred and seventy-three acres and fifty-four-hundredths of an acre (35,473.54 acres) in settlement for the same number of acres, which were the excess selected and approved to the State under the five hundred thousand acre grant of 1844 over and above the said five hundred thousand acres;

And whereas the said David W. Kilbourne did report to the governor that the Des Moines Valley Railroad Company, late the Keokuk, Fort Des Moines, and Minnesota Railroad Company, which company is the beneficiary of said grant, subject to the payment of certain debts against said grant and subject to other conditions, would consent that said lands should be so retained by the general government on condition that said railroad company should be credited by the amount of lands so retained at one dollar and twenty-five cents per acre upon the claims due the State against said grant, as set forth in the ninth section of the act of the legislature, approved March 28, 1864, granting said lands to said company;

And whereas the said David W. Kilbourne did report to the govenor that the general government required the consent of the State of Iowa, by some duly authorized agent, to the retention of said lands in settlement;

And whereas the legislature of the State did by an act entitled "An act for the adjustment of certain land claims with the general government," approved March 30th, A. D. 1866, authorize and empower J. A. Harvey to give such consent and make such settlement, with the approval of the census board, and to procure the certification of the lands of said grant to the State;

And whereas said Harvey has given the assent of the State to the retention by the general government of the said lands in settlement, and has recommended that said credit be given to said railroad company on the said debts due to the State;

And whereas the said railroad company, by Hugh T. Reid, its duly authorized agent for that purpose, has assented to the retention of said lands for the purpose of said settlement; therefore the said settlement so made by said Harvey, with the credit so recommended by him to be made to said railroad company, is hereby approved, and in consideration of the consent given by said railroad company to the settlement of the said matter in manner aforesaid, and in consideration of said railroad company agreeing and consenting that said thirty-five thousand four hundred and seventy-three thirty-four-hundredth acres of land contained in said grant, of which said railroad company is the beneficiary, should be retained by the general government for the purposes aforesaid, and for the purpose of carrying out the said agreement on the part of said State with said railroad company, therefore it is hereby further ordered that said railroad company be credited on said indebtedness and upon the claims which it is required to pay, and said railroad company is hereby credited on the said indebtedness with the sum and amount of said thirty-five thousand four hundred and seventy-three

fifty-four-hundredth acres of land, at the rate and sum of one dollar and twenty-five cents per acre, being forty-four thousand three hundred and forty-one eighty-two-hundredth dollars, to date from the 20th day of June, A. D. 1866.

In testimony whereof, we, the census board of the said State, have hereunto affixed our hands and the seal of said State.

Done by said census board while in session.

[L. S.] W. M. STONE, *Governor*,
JAMES WRIGHT, *Sec'y State*,
JOHN A. ELLIOTT, *Auditor*,
W. H. HOLMES, *Treasurer*,
Census Board of the State of Iowa

250 The Commissioner of the General Land Office certified, and the Secretary of the Interior approved, to the State of Iowa, under the said adjustment, as falling to the State under joint resolutions of March 2d, 1861, on the 14th of June, 1866, 12,209.82 acres, lying in townships eighty and eighty-one, and ranges 24, 25, 26, and 27 west, 5 P. M.

Also on the same day, 52,628.82 acres, lying in townships 86, 87, 90, 91, and 92, ranges 26, 27, and 28 west, 5 P. M.

Also a list of lands lying on the East Fork of the Des Moines River, containing 11,152.45 acres, in township 91 and 92, ranges 27 and 28.

The following is a statement showing the whole area of the grant to the State of Iowa, under the act of the 12th of July, 1862, and the amount sold and otherwise disposed of by the United States prior to the passage of said act; and showing also the area contained in the old "river lists," and the vacant lands within the limits of said grant above the mouth of the Raccoon Fork of the Des Moines River:

Whole area of the river grant, from the Racoon Fork to the northern boundary line of the State		558,000.64
Lands sold and patented and in process of patenting	44,348.60	
Pre-emption claims prior to the act 12th of July, 1862	13,993.77	
Selected for railroads—6-mile limits	115,443.84	
Selected for railroads—15-mile limits	118,009.16	
Selected under the swamp act of 1850	34,942.79	
Selected for university, under act of 1840	2,332.25	
	329,070.41	
Selected and embraced in the old river lists	58,817.30	
Vacant sections and parts of sections in place, within the limits of the river grant	170,116.91	
		558,004.06

DEPARTMENT OF THE INTERIOR,
Washington, D. C., Feb. 28, 1865.

SIR: The authorized agents of the State of Iowa have taken exceptions to certain items charged by you to the State, in setting apart the indemnity to be selected pursuant to the act of Congress approved July 12, 1862, (Stat. vol. 12, p. 543,) for aid in improving the navigation of the Des Moines River.

From your report of the 14th March last, it appears that the entire quantity of lands inuring to the State, as determined under the opinion

of my immediate predecessor, dated November 3, 1862, is 558,001.16 acres. You have decided that against said amount the State is chargable—

1st. With lands found in place, as heretofore listed	224,961 .17 acres.
2nd. With lands confirmed to the State by joint resolution of March 2, 1861, though not within five miles of the river	11,661 .80 acres.
3d. With an excess of land that has been listed to the State of Iowa, under the grant by act of September 4, 1841	19,308 .17 acres.
4th. With the amount of special certificate issued	300,000 .00 acres.
Total	555,931 .04 acres.
Leaving a balance due of	2,070 .12 acres.

The agents of the State, having taken an appeal from your action, claim that there is improperly included in the 1st item 12,813.51 acres of land that has heretofore been certified to the State under the grant of 500,000 acres, by the act of Congress approved Sept. 4, 1841, and that the second and third items, as above, have been erroneously charged, and should not enter into the account.

They also claimed that you erred in refusing to sanction the selection of even-numbered sections along the Des Moines River, which are alternate to the odd-numbered sections granted.

Having examined the subject, I am of the opinion that the 12,813.51 acres should not be charged in this account. These lands were approved to the State on the 17th February, 1851, under the grant of 500,000 acres, by the act of Sept. 4, 1841, and it is to be inferred from other facts, that they have been sold by the State during the time intervening
251 since the approval. They lie above the Raccoon Fork of the Des Moines River, and hence were not a part of the original grant by the act of August 8, 1846; nor did the confirmatory act of 1861 create a title superior to that which was confirmed and recognized by this department on the 17th of February, 1851.

Indemnity for the tracts set apart for railroads within the five-mile limits of the Des Moines River grant, has been allowed by the decisions of the department, dated November 3, 1863, and April 7, 1863, and I am of the opinion that these 12,813.51 acres stand in the same category as the railroad tracts, and that indemnity for them should likewise be allowed.

In regard to the item of 11,661.80, I am of opinion that it is a proper charge against the State in this account, although the lands do not lie within five miles of the Des Moines River as now determined and delineated by geographers and the public surveys.

These lands lying adjacent to the stream now known as the East Fork of the Des Moines River, but then known as the Des Moines River itself, were included in approved lists prepared under the act of Congress of August 8, 1846, and have been regarded as confirmed to the State by the joint resolution of March 1, 1861.

Though the words of that resolution and of the law of 1862 admit of a strong argument in favor of the claim that these lands are granted to the State, as well as those which can be brought within the description given in the last-mentioned law, it is the opinion of this department that under the act of 1862, they are to be charged to the State in adjusting the quantity of indemnity. They have been obtained for the object of the grants, and though entertaining some doubt upon the subject, I deem it to be the safer conclusion that it was not the intention of

Congress that quantity of the grant and selections should exceed the ageregate quantity of the odd numbered sections lying within five miles of the Des Moines River, from its mouth to the northern boundary of the State of Iowa.

The proposal to offset a part of the lands inuring to Iowa under the Des Moines grant, against a quantity she had received in excess of the grant of 500,000 acres by act of September 4, 1841, will be sanctioned, if it can be done with the assent and under the proper authority of the State; and Messrs. Kilbourne and Mason, in behalf of this State, now, by letters of 17th of February, undertake to complete an arrangement for a settlement.

The excess selections under the act of 1841, as you report, amount to 35,473.54 acres.

Measures have heretofore been proposed by the State for reducing this excess, but they have not been carried into effect.

According to the principles above stated, the State has received on account of the grant of 1862 for the improvement of the Des Moines River—

1st. Lands in place	212,147.66
2d. On the east fork of the river, and under joint resolution of 1861	11,661.60
3d. Special certificate issued	300,000.80
Making a total of	523,809.46

Leaving a balance of land due of 34,191.70 acres.

This balance is nearly equal to the excess certified under the act of 1841, and I am assured that an effort will now be made, on the part of the gentlemen representing the State, for the satisfactory adjustment of this balance.

No further selections will, therefore, be allowed for the present.

I do not think, however, that this department has power, under any of the acts of Congress upon the subject, to enforce, against the wishes of the State, an arbitrary offset of the excess of the 500,000-acre grant, against this balance due for the Des Moines improvement.

I approve your refusal to sanction the selection of the even-numbered sections within the limits of the grant as indemnity.

Should such selections be allowed, the alternation of the granted and reserved sections would be destroyed.

252 This alternation is expressly established by the acts of Congress making the grants, and for maintaining the same many good reasons might be assigned.

The papers in the case are now herewith returned.

I am, sir, very respectfully, your obedient servant,

(Signed) J. P. USHER, *Secretary.*

The COMMISSIONER *of the General Land Office.*

Statement showing the extent of the railroad interference with the Des Moines River grant.

Total amount of the certified railroad lists		233,453.00
Dubuque and Sioux City railroad.		
Fort Dodge district—		
Six-mile limits	56,473.32	
Fifteen-mile limits	31,537.34	
		88,010.66

Iowa Central air-line railroad.		
Fort Des Moines district—		
Six-mile limits	46,898.73	
Fifteen-mile limits	49,387.16	
Fort Dodge district—		
Fifteen-mile limits	13,470.96	
		109,756.85
Mississippi and Missouri railroad.		
Fort Des Moines district—		
Six-mile limits	12,071.78	
Fifteen-mile limits	23,613.71	
		35,685.49
Total interference		233,453.00

To his excellency W. M. STONE, *Governor of the State of Iowa:*

I herewith have the honor to submit to you a report of my labors as agent and commissioner of the State to attend to any business necessary to be done in the city of Washington, D. C., relative to a grant of lands to the State of Iowa, by act of Congress approved July 12th, 1862, which lands inure to the Des Moines Valley Railroad Company.

I was first appointed agent by Governor Kirkwood, February 18th, 1863. I visited Washington immediately thereafter, and made every possible effort to obtain a certificate to enter the indemnity lands. Great delay in obtaining a certificate was caused by the department not being furnished with a list of the lands sold and conveyed by the State for which indemnity was to be given.

On the 25th day of April, 1863, the Commissioner of the General Land Office issued a special certificate to enter three hundred thousand (300,000) acres, authorizing the selection of any public lands in the State, subject to entry at one dollar and twenty-five cents per acre.

253 The following is a copy of the special certificate.

"Whereas the act of Congress approved the 12th July, 1862, entitled "An act confirming a land grant to the State of Iowa the alternate odd-numbered sections in place and undisposed of, lying within five miles of the Des Moines River, between the Raccoon Fork and the northern boundary of said State;" and whereas said act provides that if any of said lands shall have been sold or otherwise disposed of by the United States before the passage of said act, excepting those released to the grantees of the State of Iowa under the joint resolution of March 2, 1861, the Secretary of the Interior shall set apart an amount of lands within said State to be certified in lieu thereof; and whereas it appears in the preliminary adjustment of said grant that the United States had sold and otherwise disposed of a certain quantity of land prior to the passage of said act for which the said State is entitled to indemnity under the act aforesaid; therefore, this is to certify that upon the presentation of this paper to any of the land offices in the State of Iowa, accompanied by written authority from the governor, authorizing the party presenting the same, as State agent, to make indemnity selections under said act, it shall and may be lawful for the register and receiver to receive lists of such indemnity selections from such agent, which lists must be verified by the signature of the said agent, attested by the register and receiver, and be accompanied by the certificate that the lands

so selected are vacant public lands subject to entry at private sale at $1 25 per acre; the aggregate of such selections to be restricted to three hundred thousand acres, approximate to the actual quantity, to be reduced or increased according to the result of a final adjustment; and no selections to be made unless of tracts in compact form, not less than a quarter section, unless where a fraction of less quantity is selected and taken as equivalent to 160 acres. Upon such selections being filed and verified as indicated and attached to this special certificate the register and receiver are required to make entries accordingly on the plats an records of their office, and make monthly abstract returns to this office of such selections separate from the ordinary monthly returns.

When the aggregate authorized by this certificate shall have been selected, this certificate, with the verified lists, must be returned to this office.

Given under my hand and the seal of this office at the city of Washington, this 25th day of April, A. D. 1863.

[SEAL.] (Signed) J. M. EDMUNDS,
Commissioner of the General Land Office.

In the months of July, August, and September of the same year, I caused the 300,000 acres to be entered in the Fort Dodge and Sioux City land districts. I furnished a copy of the lists to the register of the State land office at Des Moines.

On the 23d day of January, 1864, my commission was renewed by your excellency.

While I was in Des Moines in the spring of 1864, I reported to the Commissioner of the General Land Office as follows:

DES MOINES, *March* 9, 1864.

Hon. J. M. EDMUNDS,
Commissioner of the General Land Office, Washington, D. C.:

SIR: I have the pleasure to inclose you herewith the list of "indemnity lands" entered by me as agent of the State of Iowa, with a certificate of Governor Stone attached, accepting and confirming the selections.

The original "special certificate" for 300,000 acres, and my commission as agent from the governor of Iowa, you will also find attached to the list, agreeably to your instructions.

I am, respectfully, your obedient servant,

D. W. KILBOURNE.

254 The following is a copy of Governor Stone's certificate:

STATE OF IOWA, *ss:*

I, W. M. Stone, governor of the State of Iowa, do hereby acknowledge the validity of the foregoing selections, which are binding upon the State under the act of Congress of the 12th July, 1862, and hereby apply to the Commissioner of the General Land Office to certify the title to the State accordingly.

In witness whereof, I have hereunto set my hand, and caused to be affixed the great seal of the State of Iowa. Done at Des Moines, the 21st day of January, 1864.

[SEAL.] (Signed) W. M. STONE.

By the governor:

(Signed) JAMES WRIGHT,
Secretary of State.

The following acknowledgment of the receipt of the list was duly received:

GENERAL LAND OFFICE, *March 17th*, 1864.

D. W. KILBOURNE, *Keokuk, Iowa:*

SIR: Your letter of the 9th inst. is received, with lists of indemnity selections at the land office at Fort Dodge and Sioux City, Iowa, under the act of 12th July, 1862.

Very respectfully, your obedient servant,

J. M. EDMUNDS, *Commissioner.*

On the 19th of December, 1863, I addressed the following communication to the Commissioner of the General Land Office:

WASHINGTON, *Dec. 19th*, 1863.

Hon. J. M. EDMUNDS, *Commissioner of General Land Office:*

SIR: On behalf of the State of Iowa, we hereby request that a complete adjustment of the grant of July 12th, 1862, in extention of the grant of August 8th, 1846, giving lands for the improvement of the Des Moines River, be made at your earliest convenience, and that a certificate be made for the remainder of the lands to be selected as indemnity lands under said grant.

We understand that among the "clear lands" which have been set apart to the State under the said grant of 1862, are some twelve thousand acres which had been selected by the State as school lands under the law of 1841, as amended by a subsequent act of Congress. This land has been selected as school lands, as aforesaid, after the passage of the Des Moines River grant of August 8th, 1846. And as that grant was for several years supposed to extend to the source of the river, the State authorities were notified that they could select other lands in their stead.

This, however, was not done, so far as we have been able to ascertain; and when the decision of the Supreme Court of April, 1860, limited the Des Moines River grant of 1846 to the Raccoon Fork, the selection of the twelve thousand acres became good and valid.

We therefore request that the said amount of lands be awarded to the State, and that indemnity lands to the same amount be granted us in their stead. We also understand that some eleven or twelve thousand acres of land lying more than five miles from the Des Moenes River proper, and which had been improperly certified to the State as part of the lands embraced in the Des Moines River grant of 1866, aforesaid, and were therefore included in the relinquishment made to the State of Iowa by the joint resolution of March 2, 1861, have been, or are proposed to be, deducted from the grant made by the act of July 12th, 1862, aforesaid.

255 Against this we respectfully protest, and ask from you a re-examination to the matter, and a direction to the proper officer that said deduction be not made, but that the whole amount of lands granted to the State of Iowa by virtue of the said act of July 12th, 1862, be set apart to the State accordingly.

In order that the adjustment of the grant may be made final and complete, we hereby relinquish on the part of the State all claim to any lands embraced among the odd-numbered sections along the Des Moines River and within five miles thereof, which now appear to be claimed by pre-emptors, or which for any other reason are not included in the lists

of "clear lands" set apart to the State under said grant of July 12th, 1862.

We also request to be informed whether there is anything to prevent us from selecting the even-numbered sections of land along the Des Moines River as part of the indemnity lands to which we are entitled under the grant of July 12th, 1862.

Your certificate, previously given, authorizes us to select any lands now subject to sale at $1 25 per acre. These even-numbered sections are of this class, and we hope to be permitted to select a portion of these lands accordingly.

Very respectfully, your obedient servant,

(Signed) D. W. KILBOURNE.

On the first of March, 1864, the Commissioner denied the requests made in the foregoing communication and confirmed his former decision. From his decision we appealed to the Secretary of the Interior.

From March, 1864, to February, 1865, we persistently urged Mr. Usher, in person and by letter, to consider and decide the case.

Failing in my efforts thus far (as it seemed to me) to convince Mr. Usher that the State of Iowa or her railroad interests were worthy of any consideration at his hands, we decided to make further personal efforts. Accordingly on the 1st of February, 1865, I went to Washington, and for four weeks I did not fail to call on that dignitary daily, excepting Sundays and a few instances, when he named a day to see me, leaving one to three days intervening.

Finally, on the 28th day of February, 1865—eleven months after the papers in the case were placed before him—we were handed his decision in Washington, dated as above.

The questions in the case were simple, and could have been decided by an efficient and competent officer as well by two or three days' consideration as by a whole year, which was taken. I cannot, therefore, divest myself of the conviction that, by causing such unnecessary delay and loss of time and expense, Mr. Secretary Usher imposed upon your agent and trifled with the interests of the State.

I refer to a copy of the decision of Secretary Usher accompanying this report, marked "A."

From this decision we appealed to the President on one point only, to wit, in regar to the 11,661.80 acres of land.

In the absence of any law for such appeal, we obtained the written request of our senator and representatives in Congress to the President to receive the papers in the case and refer them to the Attorney General.

The present worthy Secretary of the Interior, Mr. Harlan, then senator, favored us by presenting the papers to the President.

Very soon after this, and before the papers were handed to the Attorney General, Mr. Lincoln was assassinated, which caused delay of several weeks in referring the papers.

I was in Washington in September last, when I learned that the Assistant Attorney General had the case in charge, and that a decision might be expected within a reasonable time. I have not yet been advised that the Attorney General has made his decision.

256 The Secretary of the Interior claims (as appears by his decision) that from the State of Iowa is due the United States for excess selections of school land under the act of 1841, 35,473.54 acres, and that there remains to be selected as indemnity lands 34,191.70 acres, but the

Secretary forbids any further selections until there is a satisfactory adjustment of the claim for the above excess.

I proposed, as agent of the State, and consent of the Des Moines Valley Railroad Company, and with the approval of your excellency, to adjust this matter between the United States and the State of Iowa, by an offset of the same number of acres of indemnity lands as are claimed to be due by the State, to wit, 35,473.54 acres.

The balance of the indemnity lands due, as appears by the decision of Secretary Usher, is 34,191.70 acres, which, with 1,281.94 deducted from the 300,000 acres heretofore entered, but not yet certified to the State, and added to the 34,191.70 acres above, will make the 35,473.54 acres, and would settle the claim of the United States in full.

The State can then settle with the Des Moines Valley Railroad Company, at $1 25 per acre, for the 35,473.54 acres of land so retained by the United States, out of the indemnity lands inuring to said company in settlement of the claim of the United States against the State of Iowa. This would fully adjust this long-standing, troublesome, and, I suppose, just claim of the United States against the State of Iowa. Under this arrangement the State will retain many of the lands of the excess sections which are now very valuable, instead of reconveying them to the United States, as the legislature has heretofore authorized the governor to do.

The Secretary of the Interior decides that the offset will be sanctioned, "if it can be done with the assent and under the proper authority of the State."

I have conferred with the railroad company, and they will fully sanction the offset; hence I see no obstacle now in the way of a speedy settlement of the whole matter.

The railroad company express the opinion that for the sum of $35,346 46 paid to Brown & Allender, February 5th, 1861, the State should not require interest, inasmuch as the State realized the money for a large portion of these excess selections of 1841, many years ago, and now have an opportunity to settle with the said railroad company for these lands at one dollar and twenty-five cents per acre without interest.

A statement showing the whole area of the grant to the State of Iowa under the 12th July, 1862, and the disposition of the same, marked "B."

Also a statement showing the extent of the railroad interference with the Des Moines River grant, under act of Congress of 1856, marked "C," will accompany this report.

Many vexed questions in regard to this grant seemed to arise, growing out of the construction given to the several acts of Congress, and there has seemed to be a reluctance on the part of the officers of the proper departments to take up and consider the matter.

I have used my best efforts to secure an adjustment of the said land grant, and to get the lands certified to the State.

I am now encouraged to believe that as soon as the proposed settlement by offset can be consummated, I can make a full and satisfactory adjustment with the Commissioner of the General Land Office, so that he will certify the lands to the State without any further delay.

Respectfully submitted,

D. W. KILBOURNE, *Agent.*

KEOKUK, *January 4th*, 1866.

There were duly certified and approved to the State of Iowa, on the 14th June, 1866, 127,159.73 acres of Des Moines River lands, in place lying in the Fort Dodge land district, in townships 90, 91, 92, 93, 94, 95. 96, 97, 98, 99, and 100, and in rangds 28, 29, 30, 31, 32, 33 west of 5 P. M.

257 *Exhibit No. 3 of Def't.—S. Sibley, Com'r.*

And on the same day, June 14th, 1866, there were also certified and approved to the State, 39,949.29 acres of said Des Moines River lands in place, lying in the Sioux City land district, in townships 95, 96, 97, 98, 99, 100, and in ranges 34 and 35 west of 5 P. M.

In addition to the lands in place certified and approved to the State, as above stated, in the Fort Dodge and Sioux City land district, there have also been certified and approved to the State of Iowa, three lists of Des Moines River indemnity lands, lying outside the limits of the Des Moines River grant, covering and embracing 298,929.45 acres, as follows:

In Sioux City land district	200,704.28 acres.
In Fort Dodge land district	96,899.46 "

Two of these lists, embracing 297,603.74 acres, were approved to the State, June 14, 1866, and filed in the office of the register of the State land office in Iowa, August 2d, 1866. The other list, embracing 1,315.71 acres, was approved to the State, March 13th, 1867, and filed in office of said register, April 3d, 1867.

That on the 17th of April, 1863, the Commissioner of the General Land Office and the Secretary of Interior certified and approved to the State of Iowa, under the act of Congress of May 15, 1856, entitled "An act making a grant of lands to the State of Iowa in alternate sections, to aid in the construction of certain railroads in said State," 56,473.32 acres, all lying in odd-numbered sections, and within the six-mile limits of Dubuque & Pacific Railroad, and within five miles of the Des Moines River.

That on the same day (April 7) the said Commissioner also certified to the State, under the same act of May 15, 1856, the further amount of 21,061.91 acres, lying in odd-numbered sections, and within fifteen and outside the six mile limits of said railroad, and within five miles of the Des Moines River.

And on the same day (April 7) the said Commissioner and Secretary, also certified and approved to the State, under the said act of May 15, 1856, the further quantity of 1,382.42 acres, lying in the odd-numbered sections and within the six-mile limits of said railroad, and within five miles of the Des Moines River.

That on the 7th of April, 1862, the general assembly of the State of Iowa passed and adopted a joint resolution, of which the following is a copy:

JOINT RESOLUTION in relation to the Des Moines River grant.

Resolved by the general assembly of the State of Iowa, That our senators in Congress be instructed, and our representatives requested, to use their influence to procure from the proper department at Washington, an order to prevent the sale of any lands within the State of Iowa, heretofore held by the Department of the Interior to have been granted to the Territory of Iowa by act of Congress of August 8, 1846, to aid in the improvement of the Des Moines River, until the action of Congress can be had in regard to quieting said grant, and to obtain from Congress the passage of an act or resolution granting or confirming to the State of Iowa all of said river lands to the north line of the State of Iowa, to be used by the State in paying the just claims assumed by the State against the Des Moines River improvement, and in building a railroad along said river: *Provided*, That no such act shall, in any

manner, apply to any lands heretofore granted to the State for railroad purposes, or for any other purposes whatsoever.

Resolved, That the secretary of state shall send copies of these resolutions to each of our senators and representatives in Congress.

Approved April 7th, 1862.

258 The following lists, marked A, B, and C, exhibit all of the Des Moines River lands in place which have been approved and certified to the State of Iowa, under the joint resolution of Congress of March 2, 1861, and contain, in the aggregate, 55,991.09 acres:

"A."—A list of Des Moines River lands in place approved to the State, June 14, 1866, under joint resolution of March 2d, 1861, in Fort Des Moines district.

Parts of section.	S.	T.	R.	Acres.
All of	19	81	24	642.08
S. W. ¼ of S. W. ¼	21	81	24	40.00
All of	13	81	25	640.00
All of	15	81	25	640.00
All of	17	81	25	640.00
All of	19	81	25	676.38
E. ½ of	21	81	25	320.00
All of	23	81	25	640.00
All of	25	81	25	640.00
E. ½ N. E. and W. ½ N.W	27	81	25	160.00
S. ½	27	81	25	320.00
Lots 5, 6, 7, 8, and N. ½ N. E	29	81	25	268.37
All of	31	81	25	675.62
All of	33	81	25	561.25
All of	3	80	26	701.92
N. ½ of sec. and S. E. ¼	5	80	26	538.78
N. E. S. W	5	80	26	40.00
N. ½ of sec. and S. E. ¼	9	80	26	480.00
E. ½ S. W	9	80	26	80.00
E. fr. ½ of sec. and E. fr. ½ N. W	25	81	26	385.42
S. W. ¼	25	81	26	160.00
All of	27	81	26	640.00
All of	29	81	26	640.00
N. E. ¼, N. E. N.W E. ½ S. E. and N.W. S. E	31	81	26	320.00
All of	33	81	26	640.00
All of	35	81	26	640.00
E. ½ N. E	25	81	27	80.00
Total				12,209.82

Filed in State land office, August 2, 1866.

259 *"B."—A list of Des Moines River lands in place approved to State, June 14, 1866, under joint resolution of March 2d, 1861, in Fort Dodge district.*

Parts of section.	Sec.	T.	R.	Acres.
All of	3	86	26	625.92
All of	5	86	26	624.86
All of	7	86	26	606.82
All of	9	86	26	640.00
N. ½	15	87	26	320.00
All of	17	87	26	640.00
S. ½	21	87	26	320.00
W. ½ of S.E	23	87	26	80.00
E. ½ of sec. and S. W. ¼	27	87	26	480.00
E. ½ of E. ½, and W. ½ of W. ¼	29	87	26	320.00
All of	33	87	26	640.00
All of	35	87	26	640.00
S. ½ S. E., N. E. S. E., and lots 5, 6, 7, and 8	1	86	27	326.39
All of	3	86	27	574.46
N. fr. h'f of sec., and S. W. q'r	5	86	27	467.58
All of	7	86	27	629.60
All of	9	86	27	640.00
N. h'f	11	86	27	320.00
N. fr. h'f	15	86	27	310.65
N. h'f	17	86	27	320.00

E. h'f N. E. and S. W. N. W	15	87	27	120.00
Lots 1, 2, 5, 6, 7 and 8	15	87	27	272.80
W. h'f S. W	15	87	27	80.00
All of	17	87	27	611.25
All of	21	87	27	587.82
Lots 1, 2, 3, and S. W. S. W	23	87	27	121.00
E. h'f	27	87	27	320.00
W. h'f	33	87	27	320.00
All of	35	87	27	640.00
W. fr. h f N. W	31	91	27	97.00
All of	1	86	28	627.88
N. fr. h'f sec., S. E. q'r, and N. E. S.W	3	86	28	503.02
All of	11	86	28	640.00
All of	13	86	28	640.00
All of	13	87	28	640.00
All of	15	87	28	640.00
All of	17	87	28	640.00
All of	21	87	28	640.00
All of	23	87	28	640,00
All of	25	87	28	640.00
All of	27	87	28	640.00
N. h'f N. E., S. E. N. E., and N. E. S. E	29	87	28	160.00
N. E. q'r, N. E. N. W., N. h'f S. E., and S. E. S. E	33	87	28	320.00
All of	35	87	28	640.00
W. fr. h'f sec., and W. fr. h'f of E. h'f	1	90	28	469.75
All of	3	90	28	642.18
All of	5	90	28	638.94
N. h'f	11	90	28	320.00
All of	3	91	28	627.42
All of	5	91	28	636.08
Lots 1 and 2 (E. of riv.)	7	91	28	32.00
All of	9	91	28	640.00
All of	11	91	28	640.00
W. h'f N. E., and N.W. q'r	13	91	28	240.00
S. h'f	13	91	28	320.00
All of	15	91	28	640.00
All (east of river)	17	91	28	626.60
Lots 1, 2, 3, 4	19	91	28	188.30
All of	21	91	28	640.00
All of	23	91	28	640.00
All of	25	91	28	640.00
All of	27	91	28	640.00
E. h'f sec., and lots 1, 2, 3, and 4	29	91	28	616.25
Lot 1 (west of river)	31	91	28	35.70
All of	33	91	28	640.00
All of	35	91	28	640.00
S. E. q'r	27	92	28	160.00
Lot 1 (west of river)	31	92	28	20.90
Lots 3, 4, and S. h'f sec	33	92	28	427.65
W. h'f N. W., and W. h'f S. W	35	92	28	160.00
Total				32,628.82

Filed in State land office, August 2, 1866.

"C."

GENERAL LAND OFFICE, *October* 17, 1867.

I, Joseph S. Wilson, Commissioner of the General Land Office, do hereby certify that the annexed, on pages 1 to 2, inclusive, is a
260 true and literal exemplification of the original approved list on file in this office.

In testimony whereof, I have hereunto subscribed my name and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[L. S.]

JOS. S. WILSON,
Commissioner of the General Land Office.

List of lands selected by the State of Iowa, on the East Fork of Des Moines River, under the act of August 8, 1846, "for the improvement of the navigation of the Des Moines River," and confirmed by joint resolution of March 2, 1861, Fort Dodge district.

No.	Parts of section.	Sec.	Twp.	Range.	Acres.
1	Fractional section	5	91	27	599.67
2	All of	7	91	27	668.54
3	All of	5	92	27	691.80
4	All of	7	92	27	658.24
5	All of	9	92	27	640.00
6	W. ½ N. W. ¼	15	92	27	80.00
7	All of	17	92	27	640.00
8	All of	19	92	27	665.92
9	Lots 1, 2, W. ½ of N. E. ¼	21	92	27	305.10
10	And N. W. ¼				
11	All of	29	92	27	639.84
12	All of	31	92	27	668.68
13	All of	1	91	28	635.52
14	E. ½ of N. E. ¼	13	91	28	80.00
15	All of	1	92	28	690.80
16	N. E. fr. ¼, N. fr. ½ of N. W. ¼	3	92	28	564.44
17	S. E. ¼ of N. W. ¼, E. ½ of S. E. ¼				
18	N. W. ¼ of S. E. ¼, and lots 1, 2, and 3				
19	N. ½ of sec.	11	92	28	440.00
20	E. ½ of S. E. ¼, and N. W. ¼ of S. E. ¼				
21	All of	13	92	28	640.00
22	Lots No. 1 and 2	15	92	28	18.70
23	All of	23	92	28	640.00
24	All of	25	92	28	640.00
25	Lot No. 1	27	92	28	65.20
26	E. ½ of sec. E. of N. W. ¼	35	92	28	480.00
27	And E. ½ of S. W. ¼				
	Total				11,152.45

261 GENERAL LAND OFFICE,
June 18, 1867.

I, Joseph S. Wilson, Commissioner of the General Land Office, do hereby certify that the foregoing, on page one, is a true and correct list of the lands confirmed to the State of Iowa by joint resolution of March 2, 1861, in connection with the act of 8th August, 1846, for the improvement of the navigation of the Des Moines River—being the alternate odd-numbered sections of land, formerly selected by the State, on the East Fork of the Des Moines River, and making the quantity charged to the State in the final adjustment of May 21, 1866, (excepting five hundred and nine acres and thirty-five-one-hundredths of an acre, for interfering entries.) They are now submitted for the approval of the Secretary of the Interior, subject, however, to any valid interfering rights which may have existed at the date of said joint resolution of March 2, 1861.

In testimony whereof, I have hereunto subscribed my name and caused the seal of the General Land Office to be affixed at the city of Washington, on the day and year first herein above written.

[L. S.] JOS. S. WILSON, *Commissioner.*

DEPARTMENT OF THE INTERIOR,
Washington City, July 8, 1867.

Approved, subject to the conditions and rights above mentioned.
W. T. OTTO, *Acting Secretary.*

Filed in the State land office, October 23, 1867.
C. C. CARPENTER, *Register.*

262 *A list of Des Moines River lands in place approved to State, June 14, 1866, act of July 12th, 1862, in Fort Dodge district.*

Parts of section.	Sec.	T'p.	Range.	Area.
Lots 3, 4, 5, and W. h'f S. E	7	91	28	203. 50
S. E. S. E. and W. fr. h'f of sec	7	91	28	336. 60
Fr'l part of sec. (west of river)	17	91	28	4. 40
Lots 5, 6, 7, 8, 9, and 10	19	91	28	214. 60
N. fr. h'f N. W. and S. W. fr. q'r of N. W	19	91	28	108. 21
N. W. fr. q'r S. W	19	91	28	32. 62
Lot 5 (west of river)	29	84	28	9. 00
Lots 2, 3, 4, 5	31	91	28	163. 02
W. h'f N. E. and W. fr. h'f sec	31	91	28	389. 28
N. h'f sec. and S. E. q'r	17	92	28	480. 00
W. h'f S. W	17	92	28	80. 00
N. W. N. E. and S. E. N. E	19	92	28	80. 00
E. h'f N. W. and E. h'f S. W	19	92	28	160. 00
S. E. q'r	19	92	28	160. 00
N. W. q'r and N. h'f S. W	21	92	28	240. 00
S. E. S. W	21	92	28	40. 00
E. h'f	29	92	28	320. 00
Lots 5 and 6 (west of river)	33	92	28	41. 42
N. fr. h'f N. W	5	90	29	71. 13
All	1	91	29	663. 10
N. W. fr. q'r of N. W. and S. h'f of N. W	3	91	29	128. 87
S. h'f	3	91	29	320. 00
E. fr. h'f	5	91	29	337. 87
E. h'f. of sec. and N.W.q'r	9	91	29	480. 00
S. W	9	91	29	160. 00
All	11	91	29	640. 00
All	13	91	29	601. 83
All	15	91	29	640. 00
E. h'f	17	91	29	320. 00
All	21	91	29	640. 00
All	23	91	29	640. 00
All	25	91	29	640. 00
All	27	91	29	640. 00
E. h'f sec. and E. h'f N. W	29	91	29	400. 00
E. h'f S. W	29	91	29	80. 00
E. h'f N. E. and E. h'f S. E	31	91	29	160. 00
All	33	91	29	634. 00
N. h'f sec. and N. h'f S. E	35	91	29	400. 00
S. W. S. E. and S. W	35	91	29	200. 00
S. h'f N. E. and N. W. fr. of N. E	1	92	29	135. 04
N. W. fr. q'r and S. h'f sec	1	92	29	509. 18
All	3	92	29	691. 86
All	5	92	29	689. 82

263

Parts of section.	Sec.	T'p.	Range.	Area.
All	7	92	29	628. 20
N. h'f sec. and W. h'f S. E	9	92	29	400. 00
N. E. S. E. and S. W	9	92	29	200. 00
All	11	92	29	640. 00
N. h'f sec. and W. h'f S. E	13	92	29	400. 00
S. W	13	92	29	160. 00
All	15	92	29	640. 00
N. h'f sec. and E. h'f S. E	17	92	29	400. 00
S. W. S. E. and S. W	16	92	29	200. 00
N. E. and S. h'f sec	23	92	29	480. 00
N. h'f sec. and N. h'f S. E	25	92	29	400. 00
S. W. S. E	25	92	29	40. 00
N. E. N. E	27	92	29	40. 00
N. W. fr. and S. h'f sec	31	92	29	491. 96
N. h'f S. W. and S. W. S. W	29	93	29	120. 00
N. W. N. E. and S. h'f N. E	31	93	29	120. 00
N. W. fr. q'r and N. h'f S. E	31	93	29	233. 83
N. fr. h'f S. W	31	93	29	77. 20
N. E. fr. N. E. and S. h'f N. E	1	92	30	129. 17
N. W. fr. N. W. and S. h'f N. W	1	92	30	128. 76
S. h'f	1	92	30	320. 00
All	3	92	30	674. 02
N. E. fr. N. E. and S. h'f N. E	5	92	30	126. 40
N. E. fr. N. W. and S. h'f N. W	5	92	30	127. 04
S. h'f	5	92	30	320. 00
S. E. S. E. and lot 1	7	92	30	114. 96
N. h'f sec. S. E. and lot 1	9	92	30	494. 60
W. h'f N. E. and E. h'f S. W	11	92	30	160. 00
W. h'f S. E. and S. E. S. E. qr	11	92	30	120. 00

N. h'f N. E. and S. W. N. E	13	92	30	120. 00
N. W.. W. h'f S. E	13	92	30	240. 00
Lots 1, 5, and 7	15	92	30	140. 24
Lot 1 and S. W. and S. E	17	92	30	104. 28
All	19	92	30	662. 80
All	21	92	30	640. 00
Lots 1, 2, 3, 4, 5, and 10	23	92	30	216. 78
S. W. N. W	23	92	30	40. 00
All	29	92	30	640. 00
All	35	92	30	640. 00
N. W. fr	1	93	30	198. 42
N. W. S. W. and S. E. S. W	1	93	30	80. 00
N. fr. h'f N. E. and N. W. fr	3	93	30	317. 34
N. E. S. E. and S. h'f S. E	3	93	30	120. 00
N. W. fr. N. E. and N. fr. h'f N. W	5	93	30	181. 00
Lots 1, 2, and 3	7	93	30	78. 33

264 Parts of section.	Sec.	Tp.	Range.	Area.
S. h'f N. E. and N. W. N. E	9	93	30	120. 00
W. h'f S. E	9	93	30	80. 00
E. h'f N. E. and S. W. N. E	11	93	30	120. 00
E. h'f N. W. and S. W. N. W	11	93	30	120. 00
S. E. and N. E. S. W	11	93	30	200. 00
W. h'f S. W	13	93	30	80. 00
W. h'f N. E. and S. h'f S. E	15	93	30	160. 00
E. h'f N. W. and N. W. N. W	15	93	30	120. 00
E. h'f S. W. and S. W. S. W	15	93	30	120. 00
E. h'f N. W. and N. W. N. W	17	93	30	120. 00
N. h'f S. E and S. E. S. E	21	93	30	120. 00
N. h'f S. W. and S. W. S. W	21	93	30	120. 00
N. E. N. E. and S. W. N. E	23	93	30	80. 00
N. h'f N. W. and S. W. N. W	23	93	30	120. 00
N. h'f S. E. and S. W. S. E	23	93	30	120. 00
N. W. S. W. and S. h'f S. W	23	93	30	120. 00
N. W. N. E. and N. W	25	93	30	200. 00
W. h'f S. E. and S. E. S. E	25	93	30	120. 00
E. h'f S. W. and S. W. S. W	25	93	30	120. 00
N. h'f N. E. and S. W. N. E	27	93	30	120. 00
N. W. and N. h'f S. W	27	93	30	240. 00
S. W. S. W	27	93	30	40. 00
E. h'f N. W. and N. W. fr. N. W	31	93	30	120. 42
W. h'f N. W. and S. E. N. W	33	93	30	120. 00
W. h'f N. E. and N. h'f N. W	35	93	30	160. 00
S. W. N. W. and N. h'f S. E	35	93	30	120. 00
S. E. S. E. and W. h'f S. W	35	93	30	120. 00
S. E. S. W	35	93	30	40. 00
All	7	94	30	648. 10
S. h'f S. W	15	94	30	80. 00
N. E. N. E. and W. h'f N. W	17	94	30	120. 00
S. E. N. W. and W. h'f S. E	17	94	30	120. 00
S. E. S. E. and S. W	17	94	30	200. 00
N. fr. h'f sec. and S. W. fr	19	94	30	485. 84
N. h'f S. E. and S. E. S. E	19	94	30	120. 00
W. h'f	21	94	30	320. 00
W. h'f S. E. and S. E. S. E	21	94	30	120. 00
S. W. q'r	29	94	30	160. 00
N. W. fr. q'r N. W. and S. h'f N. W	19	95	30	120. 16
E. h'f S. W. and N. W. fr. S. W	19	95	30	120. 20
E. h'f. N. E. and N. W. N. E	31	95	30	120. 00
W. fr. h'f N. W. S. fr. h'f sec	31	95	30	404. 60
N. W. q'r N. E., N. W. fr. q'r	3	92	31	219. 74
N. h'f S. W	3	92	31	80. 00
S. h'f N. E. and S. h'f N. W	5	92	31	160. 00

265 Parts of section.	Sec.	Tp.	Range.	Area.
N. h'f S. E. and S. W. S. E	5	92	31	120. 00
N. h'f S. W. and S. E. S. W	5	92	31	120. 00
S. h'f N. E. and E. h'f S. E	7	92	31	160. 00
N. W. S. E	7	92	31	40. 00
N. W. N E. and N. W	9	92	31	200. 00
N. W. S. E. and S. h'f S. E	9	92	31	120. 00
N. h'f S. W. and S. E. S. W	9	92	31	120. 00
S. E. q'r and S. h'f S. W. q'r	11	92	31	240. 00
N. h'f sec. and S. E	13	92	31	480. 00
E. h'f N. W. and S. W. N. W	15	92	31	120. 00
S. h'f	15	92	31	320. 00
N. h'f N. E. and N. W	17	92	31	240. 00

E. h'f S. E. and N. W. S. E	17	92	31	120. 00
E. h'f S. W. and N. W. S. W	17	92	31	120. 00
N. h'f N. E. and S. W. N. E	21	92	31	120. 00
S. h'f N. W. and N. W. S. E	21	92	31	120. 00
S. W	21	92	31	160. 00
All	23	92	31	640. 00
All	1	93	31	683. 66
Lots 1 and 2	3	93	31	54. 56
N. fr. h'f sec. and S. W	5	93	31	553. 44
N. E. and S. W. fr	7	93	31	318. 87
E. h'f N. W. and S. W. fr. N. W	7	93	31	119. 01
N. W. N. E. and N. E. N. W	9	93	31	80. 00
S. W. N. W. and N. E. S. E	9	93	31	80. 00
N. h'f S. W. and S. W. S. W	9	93	31	120. 00
S. E. S. E	9	93	31	40. 00
S. W. N. W	15	93	31	40. 00
N. W. N. E. and W. h'f N. W	17	93	31	120. 00
S. E. N. W	17	93	31	40. 00
N. E. N. E. and W. fr. h'f N. W	19	93	31	122. 12
W. fr. h'f S. W. and S. E. S. W	19	93	31	122. 36
E. h'f N. E. and S. W. N. E	21	93	31	120. 00
Lots 1, 2, 3, 4, 5, 6, 7, 8, and N. h'f N. E	25	95	31	331. 52
S. E. N. W	25	93	31	40. 00
S. E. S. W	27	93	31	40. 00
S. W. N. E	29	93	31	40. 00
N. E. N. E. and S. W. N. E	31	93	31	80. 00
W. fr. h'f	31	93	31	320. 96
N. fr. h'f sec., S. E. and E. h'f S. W	1	94	31	569. 03
N. fr. h'f N. E. and N. fr. h'f N. W	3	94	31	173. 20
S. W. N. E. and S. h'f N. W	3	94	31	120. 00
W. h'f S. E. and S. W	3	94	31	240. 00
W. h'f S. W	5	94	31	80. 00
E. h'f N. E. and S. W. N. E	7	94	31	120. 00

266 Parts of section.	Sec.	Tp.	Range.	Area.
N. fr. h'f N. W. and E. h'f S. E	7	94	31	157. 18
S. E. N. E. and E. h'f S. W	9	94	31	120. 00
N. W. N. E. and S. h'f N. E	11	94	31	120. 00
E. h'f S. E. and W. h'f N. W	11	94	31	160. 00
N. W. S. W. and S. h'f S. W	11	94	31	120. 00
E. h'f sec. and N. h'f N. W	13	94	31	400. 00
S. E. N. W. and N. E. S. W	13	94	31	80. 00
S. h'f N. E. and E. h'f S. W	15	94	31	160. 00
N. W	15	94	31	160. 00
N. E. S. E. and S. W. S. E	15	94	31	80. 00
N. W., W. h'f S. W	17	94	31	240. 00
N. E., S. W. fr., and E. h'f N. W	19	94	31	395. 19
N. E. S. E. and S. W. S. E	19	94	31	80. 00
E. h'f	23	94	31	320. 00
W. h'f S. W	23	94	31	80. 00
N. W	23	94	31	160. 00
N. E. and W. h'f sec	25	94	31	480. 09
W. h'f N. E. and S. E. N. E	27	94	31	120. 00
Lots 1, 2, 3, and W. h'f N. E	29	94	31	84. 14
E. h'f N. E. and N. W. N. E	31	94	31	120. 00
N. h'f S. E. and S. W. S. E	31	94	31	120. 00
N. E. N. W. and S. W. fr	31	94	31	198. 05
E. h'f N. E. and N. W. N. W	35	94	31	120. 00
N. W. fr. N. W., S. W., W. h'f S. E	3	95	31	293. 48
S. h'f N. E., S. h'f N. W	3	95	31	160. 00
All	5	95	31	687. 42
W. h'f N. E., W. h'f S. E	7	95	31	160. 00
W. fr. h'f	7	95	31	313. 88
N. h'f sec., E. h'f S. E	9	95	31	400. 00
S. W. S. E., N. E. S. W	9	95	31	80. 00
S. W. S. W	9	95	31	40. 00
All	11	95	31	640. 00
N. W. N. E., S. h'f N. E	13	95	31	120. 00
N. W., S. h'f sec	13	95	31	480. 00
N. E., S. h'f N. W	15	95	31	240. 00
N. h'f S. E., S. W	15	95	31	240. 00
W. h'f N. E., E. h'f N. W	17	95	31	160. 00
S. W. N. W. and S. E	17	95	31	200. 00
E. h'f S. W., S. W. S. W	17	95	31	120. 00
W. h'f N. W., N. E. N. W	19	95	31	117. 36
N. W. fr. S. W	19	95	31	38. 20
E. h'f sec., N. W	21	95	31	480. 00
N. h'f N. E., S. E. N. E	23	95	31	120. 00
S. h'f N. W., E. h'f S. E	23	95	31	160. 00
S. W	23	95	31	160. 00

267 Parts of section.	Sec.	Tp.	Range.	Area.
All	25	95	31	640.00
All	27	95	31	640.00
S. W. N. E., W. h'f S. E	31	95	31	120.00
S. fr. h'f N. W., S. W. fr	31	95	31	235.11
W. h'f N. E., N. W	35	95	31	240.00
S. h'f	35	95	31	320.00
S. fr. h'f	31	96	31	313.32
S. h'f	33	96	31	320.00
N. E. fr. N. E., S. W. N. E	1	93	32	97.99
N. W. fr., W. h'f S. E	1	93	32	273.65
S. E. S. E., N. h'f S. W	1	93	32	120.00
N. h'f S. E., S. W. S. E	3	93	32	120.00
N. E., N. h'f S. E	11	93	32	240.00
S. h'f N. W., N. E. N. W	11	93	32	120.00
E. h'f S. W., S. W. S. W	11	93	32	120.00
All	13	93	32	640.00
N. fr. h'f sec., S. E	1	94	32	461.52
N. h'f S. W., S. E. S. W	1	94	32	120.00
W. fr. h'f sec., N. E. fr. N. E	3	94	32	342.65
S. W. N. E., N. E. S. E	3	94	32	80.00
S. W. S. E	3	94	32	40.00
E. fr. h'f sec. E. h'f S. W	5	94	32	388.18
S. W. S. W	5	94	32	40.00
All	7	94	32	631.59
All	9	94	32	640.00
E. h'f sec., E. h'f N. W	11	94	32	400.00
E. h'f S. W	11	94	32	80.00
N. h'f sec., N. E. S. E	13	94	32	360.00
S. W. S. E., N. h'f S. W	13	94	32	120.00
S. E. S. W	13	94	32	40.00
N. h'f sec., N. h'f S. E	15	94	32	400.00
N. h'f S. W., S. E. S. W	15	94	32	120.00
N. E. N. E., S. W. N. E	17	94	32	80.00
W. h'f N. W., E. h'f S. E	17	94	32	160.00
S. W. q'r	17	94	32	160.00
N. E. N. E., S. W. N. E	19	94	32	80.00
N. W. fr. N. W., S. E. N. W	19	94	32	79.56
E. h'f sec., W. h'f N. W	21	94	32	400.00
N. h'f S. W	21	94	32	80.00
S. h'f N. E., N. W. N. E	23	94	32	120.00
S. h'f N. W., N. W. N. W	23	94	32	120.00
E. h'f S. E., S. W. S. E	23	94	32	120.00
S. W	23	94	32	160.00
N. h'f sec., E. h'f S. E	25	94	32	400.00
N. W. S. E., W. h'f S. W	25	94	32	120.00

268 Parts of section.	Sec.	Tp.	Range.	Area.
N. E. S. W	25	94	32	40.00
N. h'f sec., W. h'f S. W	27	94	32	400.00
N. h'f S. E	27	94	32	80.00
N. h'f N. E., S. h'f sec	35	94	32	400.00
S. W. N. E., N. W. S. E	1	95	32	80.00
W. fr. h'f sec	1	95	32	346.27
W. fr. h'f N. E., S. E. N. E	3	95	32	132.91
N. W. fr., E. h'f S. E	3	95	32	266.71
N. W. fr. q'r N. E., E. fr. h'f N. W	5	95	32	140.00
N. E. N. E	7	95	32	40.00
W. h'f N. E., S. E. N. E	9	95	32	120.00
E. h'f N. E., S. E. N. W	11	95	32	120.00
S. E., N. W. S. W	11	95	32	200.00
S. E. S. W	11	95	32	40.00
E. h'f sec. S. W. S. W	13	95	32	360.00
N. h'f sec. S. E	15	95	32	480.00
N. E. S. W	15	95	32	40.00
W. fr. h'f S. W., S. E. S. W	19	95	32	116.29
N. E. S. E	21	95	32	40.00
N. W. S. E., S. E. S. E	23	95	32	80.00
N. h'f S. W. S. W. S. W	23	95	32	120.00
N. W. N. W., S. E. S. W	25	95	32	80.00
Lot 4	25	95	32	33.93
W. h'f S. W	29	95	32	80.00
W. fr. h'f	31	95	32	311.00
E. h'f N. E., S. W. N. E	33	95	32	120.00
S. E. N. W. S. E	33	95	32	200.00
S. W	33	95	32	160.00
E. h'f	35	95	32	320.00
E. fr. h'f sec. E. fr. h'f N. W	3	96	32	379.90
N. W. fr. N. W	3	96	32	33.70

Lots 1, 2, 3, 4, 9, N. W. fr. N. W	5	96	32	168.69
S. W. N. W	5	96	32	40.00
W. fr. h'f	7	96	32	319.80
All	9	96	32	640.00
All	15	96	32	640.00
All	17	96	32	639.10
S. W. N. E., N. h'f S. E	19	96	32	120.00
Lots 1, 2, 3, S. E. S. E	19	96	32	175.90
All	21	96	32	640.00
S. W. S. W	23	96	32	40.00
N. E. N. E., S. W. N. E	27	96	32	80.00
S. h'f N. W., S. h'f sec	27	96	32	400.00
W. h'f N. E., S. E. N. E	29	96	32	120.00
N. W., S. E., N. h'f S. W	29	96	32	400.00

269

Parts of section.	Sec.	Tp.	Range.	Area.
N. E. N. W	31	96	32	40.00
E. h'f sec. N. W. N. W	33	96	32	360.00
S. E. N. W., E. h'f S. W	33	96	32	120.00
S. W. S. W	33	96	32	40.00
All	35	96	32	640.00
All	5	97	32	610.88
N. fr. h'f sec., S. W. fr	7	97	32	473.60
E. h'f S. E., S. W. S. E	7	97	32	120.00
S. h'f N. E., N. W., S. h'f sec	17	97	32	560.00
All	19	97	32	642.40
S. h'f N. E., N. W. N. E	21	97	32	120.00
S. h'f N. W., N. W. N. W	21	97	32	120.00
S. h'f sec	21	97	32	320.00
S. W. N. E., N. W	27	97	32	200.00
W. h'f S. E., W. h'f S. W	27	97	32	160.00
S. E. S. W	27	97	32	40.00
W. h'f sec., S. E. q'r	29	97	32	480.00
W. h'f N. E., N. E. N. E	29	97	32	120.00
E. h'f N. E., N. W. N. E	31	97	32	120.00
N. W. fr. S. E., W. fr. S. W	31	97	32	392.28
S. E. S. W	31	97	32	40.00
N. h'f sec., E. h'f S. E	33	97	32	400.00
N. W. S. E., W. h'f S. W	33	97	32	120.00
N. E. S. W	33	97	32	40.00
W. fr. h'f S. W., S. E. S. W	7	98	32	109.60
S. W. S. E	7	98	32	40.00
W. h'f S. W	17	98	32	80.00
All	19	98	32	619.32
W. h'f	29	98	32	320.00
W. h'f N. E., S. E	29	98	32	240.00
All	31	98	32	632.00
N. fr. h'f sec., W. h'f S. E	1	94	33	387.79
S. W	1	94	33	160.00
N. E. fr., S. E. N. W	3	94	33	184.55
S. h'f S. E., N. E. S. W	3	94	33	120.00
E. h'f N. E., W. h'f N. W	11	94	33	160.00
S. E. and W. h'f S. W	11	94	33	240.00
S. E. S. W	11	94	33	40.00
N. h'f N. E., N. h'f N. W	13	94	33	160.00
S. E. N. h'f S. W	13	94	33	240.00
S. E. S. W	13	94	33	40.00
N. fr. h'f sec., E. h'f S. W	3	95	33	452.76
N. W. S. E., S. W	3	95	33	200.00
W. fr. h'f N. E., N. E. N. E	5	95	33	146.03
W. fr. h'f sec., N. h'f S. E	5	95	33	425.97

270

Parts of section.	Sec.	Tp.	Range.	Area.
All	7	95	33	635.04
E. h'f sec., E. h'f S. W	9	95	33	400.00
W. h'f S. W	11	95	33	80.00
E. h'f S. E., N. W. S. E	13	95	33	120.00
N. h'f sec., E. h'f S. E	15	95	33	400.00
S. W. S. E., E. h'f S. W	15	95	33	120.00
E. h'f N. E., S. W. N. E	17	95	33	120.00
S. E., W. h'f sec	17	95	33	480.00
E. h'f N. E	19	95	33	80.00
N. h'f sec., S. E	21	95	33	480.00
N. h'f S. W., S. E. S. W	21	95	33	120.00
N. E., W. h'f N. W	23	95	33	240.00
N. E. N. W., W. h'f S. E	23	95	33	120.00
S. E. S. E., W. h'f S. W	23	95	33	120.00

N. E. S. W	23	95	33	40.00
E. h'f sec., N. h'f S. W	25	95	33	400.00
W. h'f sec., W. h'f N. E	27	65	33	400.00
N. E. N. E., W. h'f S. E	27	95	33	120.00
N. E., E. h'f N. W	29	95	33	240.00
N. E. h'f S. E	29	95	33	80.00
N. h'f N. E., N. h'f N. W	33	95	33	160.00
S. W. N. E., N. W	35	95	33	200.00
S. h'f	35	95	33	320.00
E. fr. h'f	1	96	33	307.37
N. fr. h'f N. W., S. E. S. W	1	96	33	108.47
N. W. fr. S. E	3	96	33	303.19
E. h'f S. W., N. W. S. W	3	96	33	120.00
N. E. fr., S. h'f sec	5	96	33	459.92
N. fr. h'f sec., S. E	7	96	33	470.57
E. h'f S. W., N. W. fr. S. W	7	96	33	114.39
E. h'f N. E., S. W. N. E	9	96	33	120.00
N. W., S. h'f sec	9	96	33	480.00
S. E. S. W	13	96	33	40.00
N. h'f sec., N. h'f S. E	15	96	33	400.00
E. h'f S. W., S. W. S. W	15	96	33	120.00
N. h'f sec., S. W	17	96	33	480.00
E. h'f S. E., N. W. S. E	17	96	33	120.00
N. fr. h'f sec., S. E	19	96	33	471.68
N. fr. h'f S. W., S. E. S. W	19	96	33	116.38
N. h'f sec., S. E	21	96	33	480.00
N. h'f S. W., S. E. S. W	21	96	33	120.00
W. h'f sec., W. h'f N. E	27	96	33	400.00
N. E., N. h'f N. W	29	96	33	240.00
S. W. N. W., W. h'f S. W	29	96	33	120.00
N. h'f S. E., S. E. S. E	29	96	33	120.00

271 Parts of section.	Sec.	Tp.	Range.	Area.
W. h'f N. E., N. W. fr	81	96	33	235.49
S. fr. h'f	31	96	33	315.83
N. h'f N. W., S. E. N. W	33	96	33	120.00
E. h'f sec., E. h'f S. W	33	96	33	400.00
S. W. N. E., N. W. fr	1	97	33	180.32
S. h'f	1	97	33	320.00
N. fr. h'f sec., S. E	3	97	33	415.66
W. h'f S. W., S. E. S. W	3	97	33	120.00
All	5	97	33	589.94
W. fr. h'f sec., W. h'f N. E	7	97	33	362.60
N. E. N. E., N. h'f S. E	7	97	33	120.00
W. h'f N. E., W. h'f S. E	9	97	33	160.00
W. h'f	9	97	33	320.00
N. h'f sec., W. h'f S. E	11	97	33	400.00
S. E. S. E., N. h'f S. W	11	97	33	120.00
All	13	97	33	640.00
E. h'f sec., N. h'f N. W	15	97	33	400.00
S. E. N. W., E. h'f S. W	15	97	33	120.00
E. h'f sec., W. h'f N. W	17	97	33	400.00
S. W	17	97	33	160.00
All	19	97	33	620.08
W. h'f sec., N. h'f N. E	21	97	33	400.00
S. W. N. E., S. E	21	97	33	200.00
E. h'f sec., E. h'f N. W	23	97	33	400.00
N. W. N. W., N. E. S. W	23	97	33	80.00
S. W. S. W	23	97	33	40.00
All	25	97	33	640.00
N. E. N. E., S. h'f N. W	27	97	33	120.00
N. E., E. h'f N. W	29	97	33	240.00
S. W. N. W., W. h'f S. E	29	97	33	120.00
S. E. S. E., S. W	29	97	33	200.00
S. W. N. E., N. W. fr	31	97	33	176.40
S. W. S. E., N. E. S. W	31	97	33	80.00
E. h'f sec., N. W	33	97	33	480.00
E. h'f S. W., N. W. S. W	33	97	33	120.00
N. E. q'r. N. h'f S. E	35	97	33	240.00
W. fr. h'f N. E., N. W. fr	1	98	33	230.44
E. h'f S. E., N. W. S. E	1	98	33	120.00
W. h'f S. W., N. E. S. W	1	98	33	120.60
All	3	98	33	629.60
All	5	98	33	641.88
All	9	98	33	640.00
N. h'f N. E., N. W	11	98	33	240.00
W. h'f S. W	11	98	33	80.00
Lot 1, E. h'f sec	13	98	33	358.55

272 Parts of section.	Sec.	Tp.	Range.	Area.
E. h'f S. W., S. W. S. W	13	98	33	120. 00
N. W., lot 1	15	98	33	196. 20
E. h'f sec., E. h'f N. W	17	98	33	400. 00
S. W	17	98	33	160. 00
N. fr. h'f sec., S. W. fr. q'r	19	98	33	464. 36
N. h'f S. E. q'r, S. E. S. E	19	98	33	120. 00
All	21	98	33	640. 00
All	23	98	33	621. 46
All	25	98	33	640. 00
All	27	98	33	640. 00
All	29	98	33	640. 00
All	31	98	33	622. 60
All	33	98	33	640. 00
All	35	98	33	640. 00
W. fr. h'f sec., S. E	3	99	33	530. 09
All	5	99	33	739. 30
All	7	99	33	610. 48
All	9	99	33	640. 00
W. h'f N. W., S. W	11	99	33	240. 00
S. W. S. E	11	99	33	40. 00
All	15	99	33	640. 00
All	17	99	33	640. 00
All	19	99	33	617. 12
All	21	99	33	640. 00
All	23	99	33	640. 00
W. h'f	25	99	33	320. 00
All	27	99	33	416. 73
All	29	99	33	640. 00
N. W. fr., N. h'f S. E	31	99	33	230. 49
S. W. fr	31	99	33	151. 49
All	33	99	33	611. 38
Lot 1 and W. h'f N. E	35	99	33	115. 00
N. E. N. E., W. h'f sec	35	99	33	360. 00
S. h'f S. E	35	99	33	80. 00
All	7	100	33	531. 12
W. h'f N. E., S. E. fr	17	100	33	186. 10
W. h'f	17	100	33	320. 00
All	19	100	33	623. 10
S. h'f N. W., N. W. N. W	21	100	33	120. 00
W. h'f S. E., S. W	21	100	33	240. 00
All	29	100	33	640. 00
All	31	100	33	609. 80
All	33	100	33	640. 00
Total				127, 159. 73

Filed in State land office, August 2, 1866.

273 *A list of Des Moines River lands in place approved to the State, June* 14, 1866, *under act of July* 12*th*, 1862, *in Sioux City district.*

Parts of section.	Sec.	Tp.	Range.	Area.
W. fr. h'f sec., E. fr. h'f N. E	1	95	34	429. 52
N. E. S. E., S. W. S. E	1	95	34	80. 00
N. h'f N. E., S. E. N. E	13	95	34	120. 00
N. E. S. E	13	95	34	40. 00
All	1	96	34	618. 14
N. E. N. E	11	96	34	40. 00
W. h'f N. E., S. E. N. E	13	96	34	120. 00
W. h'f S. E. N. E. S. E	13	96	34	120. 00
E. h'f N. W., S. E. S. W	13	96	34	120. 00
E. h'f S. E	23	96	34	80. 00
W. h'f N. E., W. h'f S. E	25	96	34	160. 00
N. h'f N. W., S. E. N. W	25	96	34	120. 00
N. W. S. W., S. E. S. W	25	96	34	80. 00
E. h'f N. E., N. E. S. E	35	96	34	120. 00
E. fr. h'f sec., S. h'f N. W	1	97	34	387. 45
N. h'f S. W., S. E. S. W	1	97	34	120. 00
N. fr. h'f sec., S. E	3	97	34	456. 56
W. h'f S. W., N. E. S. W	3	97	34	120. 00
N. E., N. E. N. W	9	97	34	200. 00
N. E. S. E	9	97	34	40. 00
S. h'f N. E., N. h'f N. W	11	97	34	160. 00
N. h'f S. E., S. W. S. E	11	97	34	120. 00
N. h'f S. W	11	97	34	80. 00
E. h'f sec., N. W	13	97	34	480. 00
S. E. S. W	13	97	34	40. 00

N. E., N. h'f S. E	15	97	34	240.00
S. W. S. E., E. h'f N. W	15	97	34	120.00
W. h'f N. E., N. E. N. E	23	97	34	120.00
W. h'f N. W., N. E. N. W	23	97	34	120.00
E. h'f S. E., E. h'f S. W	23	97	34	160.00
S. W. S. W	23	97	34	40.00
S. E. N. E., W. h'f N. W	25	97	34	120.00
S. E., W. h'f S. W	25	97	34	240.60
E. h'f N. E., N. E. S. E	27	97	34	120.00
W. h'f N. E., S. E. N. E	35	97	34	120.00
W. h'f N. W., N. E. N. W	35	97	34	120.00
S. E., N. E. S. W	35	97	34	200.00
All	1	98	34	638.64
All	3	98	34	629.36
E. fr. h'f sec., N. W. fr	5	98	34	458.44
E. h'f S. W., N. W. S. W	5	98	34	120.00
All	9	98	34	640.00
All	11	98	34	640.00

274

Parts of section.	Sec.	Tp.	Range.	Area.
All	13	98	34	640.00
All	15	98	34	640.00
E. h'f sec., E. h f S. W	17	98	34	400.00
All	21	98	34	492.35
All	23	98	34	640.00
All	25	98	34	640.00
All	27	98	34	640.00
Lots 1, 2, S. h'f N. E., S. E	29	98	34	307.45
All	33	98	34	640.00
All	35	98	34	640.00
S. h'f	1	99	34	320.00
S. W. S. W	3	99	34	40.00
All	5	99	34	735.02
All	7	99	34	610.00
W. h'f sec., N. E	9	99	34	480.00
E. h'f N. W	13	99	34	80.00
N. W. S. W	15	99	34	40.00
All	17	99	34	640.00
All	19	99	34	612.00
All	21	99	34	587.56
E. h'f N. E., N. W. N. E	23	99	34	120.00
S. h'f	23	99	34	320.00
All	25	99	34	640.00
All	27	99	34	640.00
All	29	99	34	611.72
All	31	99	34	615.20
All	33	99	34	640.00
All	35	99	34	640.00
E. h'f N. E., W. fr. h'f N. W	7	100	34	80.47
S. W. S. E., S. W. fr	7	100	34	154.46
All	9	100	34	544.70
N. W. fr., S. h'f sec	11	100	34	430.89
All	13	100	34	640.00
All	15	100	34	640.00
All	17	100	34	640.00
All	19	100	34	585.00
N. h'f sec., E. h'f S. W	21	100	34	400.00
All	23	100	34	640.00
All	25	100	34	640.00
E. h'f sec., S. W	27	100	34	480.00
All	29	100	34	640.00
All	31	100	34	606.40
N. E. N. E., w. h'f N. E	33	100	34	120.00
N. W., S. h'f sec	33	100	34	480.00
N. h'f sec., E. h'f S. E	35	100	34	400.00

275

Parts of section.	Sec.	Tp.	Range.	Area.
N. h'f S. W	35	100	34	80.00
All	1	99	35	730.04
N. E. fr., E. h'f S. E	3	99	35	280.55
N. h'f sec., S. E	11	99	35	480.00
E. h'f S. W., N. W. S. W	11	99	35	120.00
All	13	99	35	589.20
N. h'f N. E., S. E. N. E	23	99	35	120.00
E. h'f S. E	23	99	35	80.00
N. h'f sec., S. E	25	99	35	480.00
E. h'f S. W	25	99	35	80.00

All	9	100	35	547.08
All	11	100	35	555.74
All	13	100	35	640.00
All	15	100	35	640.00
E. h'f N. E., N. W. N. E	17	100	35	120.00
N. E. S. E	17	100	35	40.00
N. h'f sec., S. E	21	100	35	480.00
E. h'f S. W	21	100	35	80.00
All	23	100	35	511.25
All	25	100	35	640.00
E. fr. h'f sec., N. W	27	100	35	424.10
N. h'f S. W., S. E. S. W	27	100	35	120.00
All	35	100	35	640.00
Total				39,949.26

Filed in State land office, August 2d, 1866.

In addition to the lands included in the foregoing lists, there have been approved and certified to the State of Iowa, three lists of Des Moines River indemnity lands, embracing 298,914.45 acres, and are as follows:

In Sioux City land district, 200,704.28 acres.

In Fort Dodge land district, 98,215.17.

Two of these lists, embracing 297,593.74 acres, were approved to the State, June 14, 1866, and filed in this office, August 2, 1866; the other list, embracing 1,315.71 acres, was approved to the State, March 13, 1867, and filed in this office, April 3, 1867.

End of Exhibit No. 2.

276 *Def't's Exhibit No.* 4.—*S. Sibley, Com.—List of lands selected as indemnity under the act of July* 12*th*, 1862, *entitled "An act confirming a land grant to the State of Iowa and for other purposes," as per special certificate No.* 2, *by D. W. Kilbourne, agent of the State of Iowa. Selected in Fort Dodge district. Total number of acres* 1,315.71.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
March 9th, 1867.

I, Joseph S. Wilson, Commissioner of the General Land Office, do hereby certify that the foregoing, on page one, is a true and correct list of lands (as per special certificate No. 2) selected in full satisfaction of remaining indemnity for lands sold or otherwise appropriated within the five-mile limits of the grant of lands on each side of the Des Moines River, from the Raccoon Fork to the northern boundary of the State, made to the State of Iowa by the act of Congress approved the 12th of July, 1862, entitled "An act confirming a land grant to the State of Iowa and for other purposes," and they are now submitted
277 for the approval of the Secretary of the Interior, in accordance with the requirements of said act of July 12th, 1862, subject to all its conditions, and to any valid interfering rights which may exist to any of the tracts embraced in the foregoing list.

In testimony whereof, I have hereunto subscribed my name and caused the seal of the General Land Office to be affixed at the city of Washington, on the day and year first herein above written.

[SEAL.] JOS. S. WILSON,
Commissioner.

DEPARTMENT OF THE INTERIOR,
March 13th, 1867.

Approved, subject to the conditions and rights above mentioned.
O. H. BROWNING,
Secretary.

278 A similar list, containing 96,899.46 acres, certified General Land Office June 13th, 1866; approved Department of the Interior June 14th, 1866.

A similar list, containing 127,159.73 acres, certified General Land Office June 13th, 1866; approved Department of the Interior June 14th, 1866.

A similar list, containing 39,949.29 acres, certified General Land Office June 13th, 1866; approved Department of the Interior June 14th, 1866.

279 *List of lands in place granted to the State of Iowa by "joint resolution" of March 2nd*, 1861, *in connection with the act of August 8th*, 1846, *"for the improvement of the navigation of the Des Moines River, Fort Des Moines district." Total number of acres* 12,209.82.

GENERAL LAND OFFICE,
June 13th, 1866.

I, J. M. Edmunds, Commissioner of the General Land Office, do hereby certify that the foregoing, on page one, is a true and correct list of the lands granted to the State of Iowa, by "joint resolution" of March 2d, 1861, entitled, "An act confirming a land grant to the State of Iowa, and for other purposes," in connection with the act of August 8th, 1846, being the lands in the alternate odd-numbered sections in place for five sections in width on each side of the Des Moines River, from "the Raccoon Fork to the northern boundary of said State," and they are now submitted for the approval of the Secretary of the Interior, in accordance with the requirements of said grant of March 2d, 1861, sub-
280 ject to all its conditions, and to any valid interfering rights which may exist to any of the tracts embraced in the foregoing list.

In testimony whereof, I have hereunto subscribed my name and caused the seal of the General Land Office to be affixed at the city of Washington, on the day and year first herein above written.

[SEAL.] (Signed) J. M. EDMUNDS,
Commissioner.

DEPARTMENT OF THE INTERIOR,
June 14th, 1866.

Approved, subject to the conditions and rights above mentioned.
(Signed) W. T. OTTO,
Act'g Secretary.

281 A similar list, containing 32,628.82 acres, certified General Land Office June 13th, 1866; approved Department of the Interior June 14th, 1866.

282 *List of lands selected by the State of Iowa, on the East Fork of the Des Moines River, under the act of August 8th, 1846, "for the improvement of the navigation of the Des Moines River," and confirmed by "joint resolution" of March 2d, 1861, Fort Dodge district. Total number of acres* 11,152.45.

GENERAL LAND OFFICE,
June 18th, 1867.

I, Joseph S. Wilson, Commissioner of the General Land Office, do hereby certify that the foregoing, on page one, is a true and correct list of the lands confirmed to the State of Iowa, by "joint resolution" of March 2d, 1861, in connection with the act of 8th August, 1846, "for the improvement of the navigation of the Des Moines River," being the alternate odd-numbered sections of land formerly selected by the State on the East Fork of the Des Moines River, and making the quantity charged to the State in the final adjustment of May 21st, 1866, (excepting five hundred and nine acres and thirty-five one-hundredths of an acre, for interfering entries.) They are now submitted for the
283 approval of the Secretary of the Interior, subject however to any valid interfering rights which may have existed at the date of said "joint resolution" of March 2d, 1861.

In testimony whereof, I have hereunto subscribed my name, and caused the seal of the General Land Office to be affixed at the city of Washington, on the day and year first above written.

[SEAL.] JOS. S. WILSON,
Commissioner.

DEPARTMENT OF THE INTERIOR,
Washington City, July 8th, 1867.

Approved, subject to the conditions and rights above mentioned.

W. T. OTTO,
Act'g Secretary.

284 *Report of the Commissioner of the General Land Office.*

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
October 2nd, 1866.

Iowa—Des Moines River grant:

By the act of August 8, 1846, a grant was made of "certain lands to the Territory of Iowa to aid in the improvement of the navigation of the Des Moines River in said Territory."

Under that law, and pursuant to former departmental decisions, there were certified 593,964.42 acres, of which 271,572.24 acres are situated above the mouth of the Raccoon Fork.

The validity of selections north of that stream was subsequently drawn in review by the Supreme Court of the United States at the December term, 1859, 23 Howard, in the case of the Dubuque and Pacific Railroad Company vs. Litchfield, when it was ruled in effect, that the State of Iowa, under the grant of 1846, had no valid title north of the fork in question.

In view of this judicial determination, the department, under
285 the railroad grant made to Iowa by act of May 15, 1856, certified to that State, for the benefit of certain railroads, 233,453 acres, falling within the limits which had been claimed for the improvement.

Subsequently, Congress, by joint resolution approved March 2, 1861, relinquished to the State all the title which the United States then retained in the premises where the lands were held by bona fide purchasers from the State. Under that resolution the department has certified to Iowa 44,838.64 acres.

By the act of Congress approved July 12, 1862, "confirming a land claim in the State of Iowa, and for other purposes," Statutes, vol. 12, p. 543, the original grant of 1846 was extended so as to emprace the odd-numbered sections within five miles of the Des Moines, from the aforesaid fork to the northern boundary of the State. In adjusting the grant under the said act, the department has certified lands in place equal to 167,109.02 acres; indemnity lands 297,603.74 acres; leaving a residium of 1,317.32 acres, for which a special certificate has been issued authorizing additional selections to that extent; thus fully satisfying the claims under the several legislative acts, and making the
286 aggregate granted to the State under the act of 8th August, 1846, joint resolution of 2d March, 1861, and law of 12th July, 1862, of 833,079.90 acres, on account of the Des Moines improvement.

(Signed) JOS. S. WILSON,
Commissioner General Land Office.

287 *Def't's Exhibit No. 5.—S. Sibley, Com.*

GENERAL LAND OFFICE,
June 19, 1856.

GENTLEMEN: Instructions having been sent you from this office by telegraph on the 10th ult., and subsequently by mail on the 15th ult., in reference to the withdrawal from market of certain lands in your district, in pursuance of an act of Congress approved on the 15th ult., making a grant of lands to the State of Iowa in alternate sections, to aid in the construction of certain railroads in that State, you are advised that settlements are authorized upon any of the lands thus withdrawn, and rights of pre-emption may be acquired, as well to sections which may be odd-numbered and within the six-mile limits of the line of the railroads as to the other lands so reserved by the first section of the act referred to. The United States can dispose of by pre-emption any of the lands thus withdrawn up to the time "when the lines or routes of railroad are definitely fixed." Then, and not till then, will the right of the State attach, under the said act, to all vacant lands in the odd-numbered sections within the six-mile limits. Acknowledge the receipt of this.

Very respectfully,

THOS. A. HENDRICKS,
Commissioner.

288 *Def't's Exhibit No. 6.—S. Sibley, Com.*

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
June 29th, 1867.

EDWIN C. LITCHFIELD, Esq., *New York City:*

SIR: Referring to my letter of the 12th inst., I have the honor to state that, upon careful examination of the decision of the U. S. Supreme Court at the December term, 1866, in the case of Wolcott v. the Des Moines Navigation and Railroad Company, a printed copy of which

was furnished with your letter of the 31st ult., I have come to a different conclusion from what you seem to have reached as to the extent of said decision.

The main point ruled by the court was in relation to a specific tract of land within the five-mile limits of what is known as the "Des Moines River grant," above the Raccoon Fork, under act of Congress of 8th August, 1846, as against the railroad grant under act of 15th May, 1856, and recognizes title under the first-named grant.

The question did not come before the court as to what rights, if any, could have been acquired by actual settlers under the pre-emption law subsequent to the rejection by said court, in 1859, (23 Howard, 666,) of the Des Moines River claim above the fork, and prior to the passage of the joint resolution by Congress, 2d March, 1861, and act of 12th July, 1862, in favor of bona fide purchasers from Iowa.

It is true the court expressed the opinion that, under the first-named or river grant of 1846, the odd-numbered sections within said limits above the fork were reserved, and that, therefore, title could not pass under the second or railroad grant of 1856.

However this may be, it is held by this office that after the rejection by the Supreme Court in 1859 of the Des Moines River grant as to lands above the Raccoon Fork, and before the confirmation of said grant by legislative action in 1861–'2, as to said lands, in favor of bona fide purchasers from the State, such reservation did not operate as a bar to the privileged class of persons known to our system as actual settlers under the pre-emption law; and it is not understood upon what ground a claim under the Des Moines grant can now be set up to the tracts covered by actual settlement of pre-emption, when in the final adjustment of that grant, allowance for the benefit of the said improvement claim has been fully given in other lands by way of indemnity, and accepted accordingly by the State.

Your request, therefore, that all pre-emption claims to lands within the limits indicated be rejected, unless they had their inception prior to the original grant of 8th August, 1846, is hereby declined.

I am, very respectfully, your obedient servant,

(Signed) JOS. S. WILSON,
Commissioner.

289 *Def't's Exhibit No. 7.—S. Sibley, Com.*

That on the 10th of April, 1862, the Secretary of the Interior addressed to the Commissioner of the General Land Office an official communication, of which the following is a copy:

DEPARTMENT OF THE INTERIOR,
Washington, April 10, 1862.

SIR: In answer to your communication of the 18th March last, making certain inquiries respecting the proper disposition of lands in Iowa, granted to the State by act of Congress of 15th May, 1856, and by joint resolution approved March 2, 1861, I am of opinion that they are to be disposed of as said act and resolution directs, without any regard to the act of August 8, 1846, referred to in your letter.

It appears that the action of this department in construing the last-named act has been in no respect uniform; not sufficiently so to form a precedent for its present direction; and if it had, there are now other considerations which will control its action. The Supreme Court has decided, in the case of the Dubuque & Pacific Railroad Company vs.

Litchfield, 23 Howard, p. 66, that the act of 8th August, 1846, did not cede any lands to the State above the Raccoon Forks, and the before-mentioned joint resolution declares that the lands above the Raccoon Forks were improperly certified as a portion of the grant of 8th August, 1846.

It follows, then, that such of those lands as are embraced in the act making the railroad grant, approved May 15, 1856, are to be disposed of according to the terms of that act, and that without any regard to the fact of their having been certified under the act of August 8, 1846.

After completely satisfying the demands of the State embraced by that act, so much of the lands north of the mouth of Raccoon Forks as were certified under the supposed grant of August 8, 1846, and which the State of Iowa had sold to bona fide purchasers prior to the 2d March, 1861, will also be certified to the State of Iowa.

The act of 15th May, 1856, granting lands to the State for railroad purposes, except such lands as the rights of pre-emption have attached thereto. This last remark is made because it effects the case of Cilly and, may be, others claiming pre-emption on said lands.

Very respectfully, your obedient servant,

CALEB B. SMITH, *Secretary.*

To the COMMISSIONER GENERAL LAND OFFICE.

290 *Def't's Exhibits No. 8.—S. Sibley, Com.*

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
May 21, 1868.

C. C. CARPENTER, Esq.,
Register State Land Office, Des Moines, Iowa:

SIR: I have the honor to inclose herewith a copy of the decision of the hon. Secretary of the Interior, dated May 9, 1868, relation to the Des Moines pre-emption cash entry No. 21,240 of Hurbert Batten for S. W. ¼ 3, 83, 27, by which you will perceive that the hon. Secretary awards said tract to Mr. Batten, and rejects the claim of the "Des Moines River Navigation Co." and the "Iowa Central air-line railroad" thereto. I would add that, under date of the 13th instant, the hon. Secretary affirmed our decision of Oct. 19, 1867, awarding N. ½, S. W. ½, & S. W. ¼ of S. W. ¼ 25, 85, 27 to Daniel C. Shipley, per cash entry No. 21,235, as against the asserted claim of the "Des Moines co." to the same tract.

Very respectfully,

JOS. S. WILSON,
Commissioner.

291 *Def't's Exhibit No. 9.—S. Sibley, Com'r.*

WASHINGTON, D. C., *May* 9, 1868.

SIR: I have received your report of the 9th October last, and the accompanying papers in the case of Hurbert Batten from the Des Moines office, Iowa, claiming the right of pre-emption to the S. W. ¼ 3, town. 83, R. 27, by reason of a settlement made thereon October 2, 1857. It appears from your report that on the 6th December, 1866, you awarded the land to Batten; but as it had been previously certified to the State of Iowa under the railroad grant of May 15th, 1856, you required a relinquishment on the part of the State before issuing patent; that on the 23d day of

July, 1867, you re-examined the case and decided to cancel the entry of Batten upon the ground that his settlement commenced after the right of the railroad company had attached. From this decision
292 Batten appeals. The required relinquishment under the railroad grant was received at your office after you had made the second decision. This tract of land is a part of an odd-numbered section situated above the Raccoon Forks, within five miles of the Des Moines River, and claimed as a part of the grant to Iowa to aid in the improvement of said river. It is also within the six-mile limit of the railroad grant, and was approved and certified to the State under both grants. In view of these grants, the several decisions of the department and of the Supreme Court in reference to their extent and validity, it becomes necessary to review the whole matter in order to a correct determination of the case under consideration.

1st. The act of Congress approved August 8th, 1846, (9 Statute
293 777,) granted to the Territory of Iowa, "for the purpose of aiding said Territory to improve the navigation of the Des Moines River, from its mouth to the Raccoon Fork (so-called) in said Territory," one equal moiety, in alternate sections "of the public lands remaining unsold and not otherwise disposed of, encumbered, or appropriated in a strip five miles in width on each side of said river," to be selected within said Territory by an agent or agents, &c.

The proper State authorities, February 15th, 1851, formally notified your office that they selected the odd sections above the Raccoon Fork to the source of the Des Moines River, and on the 10th March, 1852, certain lands, among which was the tract in question, were approved to the State by Secretary Stewart in view of the decision of Secretary
294 Walker that the grant extended above said Fork. Prior to the last date several conflicting decisions had been made as to the limits of this grant, some extending it only to the mouth of the Raccoon Fork, others to the northern boundary of the State. At the December term, 1859, the Supreme Court of the United States, in the case of the Dubuque and Pacific R. R. Co. vs. Litchfield, (23 Howard, 66,) decided that this grant did not extend above the Raccoon Fork.

The action of the executive department awarding and transferring to the State, under this grant, lands situated above the said fork was regarded by the court as unauthorized and void. They were, therefore, approved to the State for railroads under said act of May 15th, 1856, so far as such lands was situate within the prescribed limits of the line of the road.

295 The attorney of the Des Moines Navigation and Railroad Company, in a very elaborate brief, contends that under the grant of 1846 this land was withdrawn, and that the original decision of the court could not operate to restore it.

He refers to the instructions issued by the Commissioner of the General Office of June 1st, 1849, to the register and receiver at Iowa City, Iowa, for evidence of withdrawal. Upon looking at these instructions, it is found that the withdrawal only extended up to town. 83 N., R. 26 W., that being as far as the public surveys had progressed in that direction.

This tract is consequently not within the limits of that withdrawal. Besides the court held that the act of Congress "was a grant to Iowa of an undivided moiety of the lands below the Raccoon Fork, and the officers of the executive department had no further authority
296 then to make partition of these lands.

Having extended their acts to lands lying "outside of the boundaries," their attempts to make partition were merely nugatory.

The grant being thus restricted to lands below the Raccoon Fork, Congress by resolution, approved March 2, 1861, relinquished to the State of Iowa all the title the United States then held in the tracts of land above the said fork, which had been improperly certified to said State under the grant of 1846, and which were then held by bona fide purchasers under the State.

It is also claimed that the Des Moines Improvement Company was a bona fide purchaser from the State, and consequently that the defect of title was cured by said resolution.

After it had been approved the State was called upon to furnish
297 a list of the tracts improperly certified to her, which she had sold. This tract is not found in the State's list, although it appears in a list of tracts said to have been sold by the company. Said resolution not covering all the lands claimed from the Des Moines River grant, Congress passed the act approved July 12th, 1862.

This act makes a new grant to the State of the lands above the Raccoon Fork "to be held and applied in accordance with the original grant," except a portion thereof, which are to be used to aid in constructing a railroad; and it is provided, that "if any of said lands shall have been sold, or otherwise disposed of by the United States, excepting those released under the joint resolution, an equal amount of lands within the State are to be set apart and certified in lieu thereof." Referring to the original grant, it is found to include only "public lands
298 remaining unsold, and not otherwise disposed of, encumbered, or appropriated." The new grant gives indemnity for any of such lands above the said fork disposed of, except those released by the resolution. In view of this legislation, it becomes necessary to ascertain what indemnity, if any, was due the State.

The Commissioner of the General Office, therefore, stated an account between the United States and the State of Iowa, dated May 21, 1866. The State was credited with the amount of the odd-numbered sections within five miles of the Des Moines River above the Raccoon Fork, being a total of $558{,}004\frac{00}{100}$ acres, and debited as follows:

1. Lands selected under special certificate	$297{,}603\frac{76}{100}$ acres.
2d. Lands in place to be certified	$167{,}109\frac{02}{100}$
3d. Lands confirmed by resolution	$44{,}838\frac{94}{100}$
299 4th. Lands confirmed on east fork	$11{,}661\frac{80}{100}$
5th. Excess selected and approved under the act of 1841	$35{,}473\frac{54}{100}$
	$556{,}686\frac{74}{100}$
Leaving due the State	$1{,}317\frac{32}{100}$
	$558{,}004\frac{00}{100}$ acres.

This adjustment was accepted by Josiah A. Harvey, register of the State land office, and commissioner in behalf of the State of Iowa, and approved by the Secretary Harlan May 29th, 1866. The $1{,}317\frac{32}{100}$ acres were subsequently selected and approved to the State. The State by the deliberate and recorded admission of her authorized agents has thus received all the lands to which she was entitled on account of the improvement of said river. The adjustment is conclusive and final. As the State received indemnity for this identical tract, her claim on behalf
of the Des Moines company must be rejected without regard to
300 adverse claims.

2d. Having disposed of the claim under the river grant, I proceed to consider that of the railroad. I premise by saying, that while it appears that the railroad company were notified of the appeal taken by Batten, they have failed to put in an appearance. The grant to the State for the purpose of aiding in the construction of railroads, by said act of 1856, granted every alternate odd-numbered section, for six sections in width, on each side of each of the roads, with the right to select indemnity for such sections or parts thereof disposed of, with a proviso reserving from the operation of the grant any and all lands reserved for the purpose of aiding in any object of internal improvement, &c.

The Supreme Court of the United States, at the December term, 1866, (5 Wallace, 81,) rendered a decision to the effect that said proviso
301 operated to exclude from the R. R. grant the odd-numbered sections within five miles of the Des Moines River above the Raccoon Fork; and that the same passed to the State under the acts granting lands to aid in the improvement of said river.

At the date of that decision the Des Moines River grant had been finally adjusted. The State had, as before remarked, received all the land to which she was entitled on account thereof, and she is thus estopped from setting up a claim. Although this fact does not appear in the record of the case, I have shown that it is incontrovertiby established by the records of your office. It is the duty of the department, in administering the acts of Congress, to give full effect to the settlement; otherwise the State would first obtain, in lieu of lands
302 which she alleged had been "otherwise disposed of," an indemnity amounting to an equal quantity of such lands, and then, when her right to land, selected by way of indemnity, had been recognized and confirmed to her, she could assert her title to the lands she alleged had been disposed of. The effect of this would give her more than she originally claimed.

The effect of that decision is therefore only to exclude from the railroad grant lands lying north of the fork and restore them to the public domain, at least so far as to subject them to the operation of the pre-emptiom and homestead laws. Further, by act June 2d, 1864, (13 Stat., 98,) amendatory of the grant of 1856, additional lands were granted to the State and new provisions were engrafted upon the original law.

One of these, the last proviso to the 4th section, excludes from
303 the railroad grant any lands "settled upon and improved in good faith by a bona fide inhabitant under color of title derived from the United States or the State of Iowa, adverse to the grant," and the railroad company are authorized to select other lands in lieu of tracts so settled upon and improved. These bona fide inhabitants need not necessarily be pre-emption settlers, but they must be bona fide settlers, claiming from the United States or the State of Iowa. Consequently the State could have no valid claim, under the railroad grant, to any tract settled upon and improved in good faith by a bona fide inhabitant.

Furthermore, it is certified by the executive of the State that the State has not transferred this tract she relinquishes any title or color of title to it by virtue of its having been approved and certified under the grant.

304 3d. The remaining question to be determined is whether Batten's claim can be allowed. It is not material to consider whether this land has been reserved so as to exclude it from the operation of the pre-emption laws. Even if such had been the case, the difficulty would

be removed by the proviso in the act of 1864; and it is only necessary to ascertain whether he is a bona fide settler.

From the evidence it would appear that Batten settled upon the land in good faith, in October, 1857, having purchased the improvements of a prior settler, and has complied with the requirements of the pre-emption laws and been allowed to enter the land. That entry is in accordance with law and will be carried into patent.

I am sir, very respectfully, your ob't serv't.

O. H. BROWNING,
Secretary.

Hon. JAS. S. WILSON,
Commissioner of the General Land Office.

305 The foregoing are the exhibits, and all of the same, referred to in the foregoing evidence, & offered & introduced by counsel for the respective parties, & are all & the exhibits referred to in my certificate preceeding these exhibits.

As witness my hand, Oct. 27, 1869.

S. SIBLEY, *Comm.*

306 And afterwards, to wit, on the 29th day of October, A. D. 1869, came the plaintiff by Finch & Rivers, and James M. Elwood, his solicitors, and filed in said clerk's office a stipulation, and the deposition of Woolsey Welles, C. B. Richards, and Hannah Riley, which stipulations and depositions are in the words and figures following, to wit:

307 U. S. circuit court, district of Iowa.

WILLIAM B. WELLES
vs.
HANNAH RILEY.

It is hereby stipulated that the annexed depositions of Wolsey Welles, Charles B. Richards, and Hannah Riley, taken before J. A. O. Yeoman, commissioner appointed to take depositions by this court, on the 29th day of September, 1869, may be read in the hearing of this action the same as if taken upon commission duly issued to said Yeoman, all irregularity and informalities in taking or certifying the same being hereby waved, the parties hereon reserving the right to object on the hearing to any interrogatories & answers thereto on the grounds appearing in said depositions. And it is further stipulated that the copies of all exhibits and other papers therein set forth be read with the same force and effect as said originals could be, saving all objections to the competency of said originals.

Dated Oct. 27, 1869.

FINCH & RIVERS, & J. M. ELLWOOD,
Sol's for Compl't.
GALUSHA PARSONS, *Def't's Sol.*

308 United States circuit court, district of Iowa.

WILLIAM B. WELLES, COMPLAINANT,
vs.
HANNAH RILEY, DEFENDANT.

Depositions taken in the above-entitled cause, pursuant to a commission hereunto annexed, on this the 29th day of September, A. D.

1869, before me, J. A. O. Yeoman, a commissioner duly appointed and qualified by taking the oath of office in the annexed affidavit, the plaintiff appearing by D. O. Finch & Theo. Hawley, his attorneys, & the defendant by Galusha Parsons, her attorney.

Called by plaintiff's solicitors.

Wolsey Welles, being duly sworn, answered as follows:

Int. 1. State your name, age, occupation, & place of residence.

Ans. Wolsey Welles; sixty-seven years; retired lawyer; Fort Dodge, Iowa.

309 Int. 2nd. State whether you are acquainted with the parties to this cause, & your relation to them, if any.

Ans. I am acquainted with those parties, & the brother of the plaintiff, William B. Welles.

Int. 2nd. State whether you have at any time acted as the agent or the attorney of the plaintiff herein touching the matter or matters in controversy in this cause, & if so, state by what authority, and if the same were in writing or not, and if in writing, present the same for inspection.

Ans. I have acted as the agent of Wm. B. Welles since the month of November, 1858, at first by virtue of letters, correspondence from my brother to myself, and from some time in the spring of 1859 from a power of attorney, which I produce, and which is hereunto attached marked Exhibit A.

310 Int. 4th. Please state whether or not you are acquainted with the signature of the plaintiff in this cause.

Ans. I am.

Int. 5th. Here plaintiff's attorney presented to the witness the original of Exhibit "A," & asked: Please examine the signature to the paper now presented, & state if you know whose it is.

Ans. I have no doubt it is the signature of the plaintiff, Wm. B. Welles.

Int. 6th. State whether under the authority to which you have referred you have done or caused to be done anything touching the matter in controversy in this suit, or anything toward the protection of plff's interest in the following-described real estate, to wit: the northwest quarter of section No. thirty-three in township No. eighty-nine north, of range No. twenty-eight west of the fifth principal meridian, Iowa. If so, state what you have done while acting in this capacity.

311 Ans. In November or December, 1858, immediately after my arrival in Fort Dodge to discharge the duties of my agency. I went on to the land described in question & found Hannah Riley & her family occupying and claiming the northwest quarter section. I gave her verbal notice that my brother was the owner of the whole of said section thirty-three, and warned her not to commit any trespass by removing timber. I said to her that he did not wish to sell the land, but would lease it to her. In the spring of (1859) eighteen hundred and fifty-nine, I prepared a written notice to Hannah Riley, & to the following effect, that my brother, William B. Welles, was the owner of the whole of said section thirty-three, or of the northwest quarter, & that if she continued in possession of it he would expect to receive a reasonable rent for the part which she occupied, to be collected by suit if not voluntarily paid, and also for all damages for trespass on the

312 lands & timber, and I directed my son Alfred R. Welles, he being then about twenty years old, to deliver a copy of the above

written notice to Mrs. Hannah Riley; & I afterwards, in the spring of 1868, employed attorneys Finch & Ellwood, of Des Moines, to commence suit in the district court of Webster County, Iowa, to quiet the title and recover possession of the said land, against Hannah Riley, in favor of Wm. B. Welles, the plaintiff in this suit, which measure he afterwards approved.

(Objection. Here the defendant's solicitor objected to the evidence of acts done prior to the 8th day of April, 1859, upon the ground that the authority of the witness, if any, was by writing, which writing has not been produced.)

Int. 7th. State if, at the time of the first conversation between you and the defendant, anything was said by the defendant in reply to what you said in regard to the land in controversy.

313 Ans. She claimed that the land was public land.

Cross-examination by defendant's solicitor:

Int. 1st. When did you come to the State of Iowa?

Ans. My first visit to Iowa was in October, 1858. I removed my family in November, the latter part.

Int. 2. When did you first see or go upon the land in question?

Ans. It was late in November, or early in December, 1858.

Int. 3d. Was the defendant then living with her family upon the land?

Ans. She was living there with her family.

Int. 4th. What improvements were on the land at that time?

314 Ans. There was a log dwelling-house in which she was living, and there was a stable made of poles, I should think, probably covered with poles or with shingles, and stabling for horses and cows; I think there were thirty acres or more broken and under a Shanghai fence; there had been crops on the land during the season which was past, certainly corn and perhaps small grain, I cannot remember, and I think probably there were out-buildings, hog-pens, and hen-houses, and a yard for cattle around the barn.

Int. 5th. Did you learn from Mrs. Riley at that time, or had you prior to that time learned from any other source, how long she and her family had lived upon the land, and if so, how long?

(Objected. So much of the above question as asked for a conversation between the witness and any other person than Mrs. Riley, or with

315 Mrs. Riley, than the time referred to by witness in his direct examination, is objected to by plff's solicitors, for the reason that it is hearsay, and further that it is not cross-examination.)

Ans. My impression is that Mrs. Riley told me at that time that her husband and she had occupied the land since 1855 or 1856, and that her husband had died within about a year previous to the conversation.

Int. 6th. Did Mrs. Riley tell you at the same time that they settled upon this land expecting to obtain title from the government, and that they had made application at the land office to enter it?

Ans. I can't recollect whether she said that they had made application for it or not, but that she had a claim upon it; my impression is that she said she had settled upon it expecting to get it from the

316 government as a pre-emption.

Int. 7th. State how far this land lies from your residence?

Ans. About two miles.

Int. 8th. State whether you had seen this land frequently during the last ten years and had knowledge of the improvements that were made upon it during that time and prior to the commencement of this action.

State fully the character of the improvements and your knowledge respecting them at the time that they were made.

(Objected to by defendant's solicitor for the reason, 1st, that the same is immaterial to the issues in this cause; 2d, that the same is not cross-examination.)

Ans. I have had knowledge of the improvements that have been made in the last ten years; the improvements additional to those
317 of which I have already spoken consist of the breaking and fencing of from thirty to fifty acres, and I believe it is a Shanghai fence. It has been cultivated in crops during all this period. In addition to this there has been a small frame-house built. I have known of them as they progressed from year to year.

WOOLSEY WELLES.

Sworn to before me and subscribed in my presence by the above-named Woolsey Welles on this the 29th day of September, 1869.

J. A. O. YEOMAN,
Commissioner.

318 The defendant's attorney offers in evidence the testimony of Charles B. Richards.

Charles B. Richards being duly sworn, says:

Int. 1st. State your name, age, occupation, and place of residence.

Ans. Charles B. Richards; thirty-five years old; farmer; Fort Dodge, Iowa.

Int. 2. State how long you have resided in Fort Dodge.

Ans. Since March, 1856.

Int. 3d. State if at any time you were register in the U. S. land office, Fort Dodge district, Iowa; if so, during what time?

Ans. I was from April, 1861, to May, 1868, except about three months in 1867.

319 Int. 4th. State whether you are acquainted with the defendant; if so, how long have you been acquainted?

Ans. I have been acquainted with her since the summer of 1856.

Int. 5th. State where she has lived during all the time you have known her.

Ans. On the northwest quarter of thirty-three, eighty-nine, twenty-eight.

Int. 6th. State whether you have in your hands the book kept at this land office called the record of the filing of declaratory statements; and if so, state when Mrs. Riley's statement appears to have been filed.

(Objected to by solicitors for plaintiff for the reason that it is not the best evidence and leading.)

Ans. I have in my hands the original book of the Fort Dodge land office kept for that purpose, delivered to me by John M. Stock-
319*a* dale, former register when I took charge of that office, and by me used as such record, during the eight years in which I had charge of the office, for all filings on lands not subject to private entry; Mrs. Riley's appears to be "declaratory statement No. 1603, Hannah Riley, Webster County, Iowa, northwest quarter of thirty-three, eighty-nine, twenty-eight, filed April 10th, 1860."

Int. 7th. State whether you were present at the time Mrs. Riley filed her declaratory statement, and all the facts within your knowledge respecting the same.

Ans. I was present; and Stockdale, the register, allowed her to file her statement.

Cross-examination by plaintiff's solicitors:

Int. 1st. Did you see the defendant sign any declaratory statement at the time referred to?

319b Ans. I do not recollect whether I did or not.

Int. 2d. State where the declaratory statement, if any, made by her, is at the time, if you know.

Ans. I do not know; unless it is on file with the declaratory statements in this land office.

Int. 3d. State whether or not, during the eight years you were register of the land office at this place, you ever saw a declaratory statement of the defendant for pre-emption on this land.

Ans. My impression is that I have.

Int. 4th. State at about what time you saw it.

Ans. My impression is that it was about the time Mrs. Riley proved up her pre-emption, which was in May, 1862.

319c Int. 5th. Examine the paper now presented to you, and which is in words and figures as follows, to wit:

"*Statement of cases where land is subject to private entry.*

"I, Hannah Riley, of Webster County, State of Iowa, being a citizen of the United States, and a widow woman, and the head of a family, have, on the 10th day of April, A. D. 1860, settled and improved the northwest quarter of section No. 33, in township No. 89 north, of range No. 28 west, in the district of lands subject to sale at the land office at Fort Dodge, and containing 160 acres and — hundredths of an acre, which land has been offered at public sale, and thus rendered subject to private entry since the passage of the act of the 4th of September, 1841, but prior to my settlement thereon. And I do hereby declare my intention to

319d claim the said tract of land as a pre-emption right, under the provisions of the said act of the 4th of September, 1841.

"Given under my hand this 6 day of July, A. D. 1860.

"HANNAH RILEY.

"Signed in presence of—

"WM. P. LOGAN."

State what the same is, and state whether or not it is the paper to which you have heretofore referred as the declaratory statement of the defendant.

Ans. It is.

Int. 6th. State where you obtained the same, and when.

Ans. I have just found it among the records of the government land office.

Int. 7th. State whether there ever was more than one declatory statement filed in the government land office.

Ans. I have no recollection.

319e Int. 8th. State whether, by reference to the book to which you have heretofore referred, there was any other declaratory statement filed by the defendant on the 6th day of July, 1860.

Ans. The records show no other.

Int. 9th. Examine the paper now presented to you, purporting to be the patent of the United States, a copy of which is hereto attached and marked Exhibit "B," and state if you know what the same is, by whom issued, and to whom.

Ans. It is a patent of the United States purporting to convey to Mrs. Hannah Riley the land in question in the usual form, signed by the

President, and countersigned by the recorder of the General Land Office, and with the seal of the land department of the United States.

Re-examined by defendant's attorney:

319*f* Int. 1st. In what year was the business of this land district removed from Des Moines to the office at this place?

Ans. In November, 1855.

Int. 2d. From the plats kept in the land office, when does this land appear to be surveyed?

Ans. In 1851, and approved by the surveyor general December 8th, 1857.

Int. 3d. State what entry, if any, appears upon the plats as to when this land was proclaimed. (The plat is here produced & given to the witness for his inspection.)

(Objected to by plaintiff's solicitors because the plat, or an entry upon it, is not the best evidence of the time of proclamation, or offering of public lands, or of the existence of the fact itself.)

320 Ans. I find upon the plat the usual certificate attached to plats of the proclaiming and offering of lands issued by the register, and in words and figures as follows, to wit:

"Proclaimed February 1st, 1853; offered 11th day July, 1853.

"R. STIDRICK, *Register.*"

Int. 4th. In your judgment, what is the present value of this land?

Ans. In my opinion the quarter section is worth at present from eight to ten thousand dollars with the improvements thereon.

Re-cross-examination:

Int. 1st. Examine the plat to which you have before referred, and state whether there is any entry in red ink over the land in controversy; and if so, state what it is.

Ans. "Des Moines River grant."

Int. 2d. When was it first put on?

Ans. It was on when I first saw it.

321 Int. 3d. State whether there is anything on file in the Fort Dodge land office pertaining to the withdrawal of the lands in controversy.

Ans. I have looked for it frequently, and have never been able to find anything either that it was proclaimed or withdrawn. If the papers and proclamations in regard to this matter were ever transferred, I have never been able to find them from the land office at Des Moines to the land office here.

C. B. RICHARDS.

Sworn to before me and in my presence on this the 29th day of September, A. D. 1869.

J. A. O. YEOMAN,
Commissioner.

322 Hannah Riley, being duly sworn, deposes and says:

Int. 1st. State your name, age, residence, and occupation.

Ans. Hannah Riley; sixty years of age; farmer; Webster County, two miles from Fort Dodge.

Int. 2d. On what section and part of section do you live?

Ans. On section thirty-three, the northwest quarter, 89, 28.

Int. 3d. In what year did you move on that section?

Ans. About the middle of July, 1855.

Int. 4th. In what year did your husband die?

Ans. On the 7th day of June, 1857.

Int. 5th. Did he occupy and improve these premises from the
323 time he moved onto them until the time of his death?

Ans. Yes, he lived there until he died there. It was in that house he died.

Int. 6th. State if you know whether he ever applied at the land office in this place to enter the land.

Ans. I cannot say.

Int. 7th. State when you first applied.

Ans. I applied to Stockdale, and Logan, the clerk in the office, give me writings, but I have lost them. I think it was about a year after my husband's death.

Int. 8th. When Mr. Logan prepared the declaratory statement produced here to-day, did you state to him and Mr. Stockdale that you settled upon the land in 1855?

(Objected to by plaintiff's solicitors as immaterial and leading.)

324 Ans. I stated to Mr. Stockdale that I settled upon the land in 1855.

Int. 9. State how long you had been acquainted with Mr. Stockdale, and what means he had of knowing how long you had been upon the land.

(Objected to by pl'ff's solicitors, for the reason that it is immaterial.)

Ans. I had been acquainted with him in 1857; my daughter lived with him. He was out at my house on different times—he & his wife.

Int. 10th. State whether at the time you filed your declaratory statement you knew that Mr. Logan had made the date of your settlement in 1860 instead of 1855.

Ans. I did not know anything about it.

Cross-examination by plaintiff's solicitors:

325 Int. 1st. State whether or not you are the defendant in this cause.

Ans. I am.

Int. 2d. State whether you ever filed any other pre-emption or declaratory statement in the Fort Dodge land office than the one referred to here to-day.

Ans. No, sir; I never did.

Int. 3d. State if you knew, when you filed this declaratory statement, what was in it.

Ans. All that I knew what was in it that I pre-empted in the land office to get this land.

Int. 4th. State whether or not Mr. Stockdale, the register at the time you made this pre-emption, asked you any questions.

326 Ans. He asked me if I had ever pre-empted before.

Int. 5th. Did he not ask you what land you wanted to pre-empt?

Ans. He asked me the section and the number, and I told him.

Int. 6th. Did Mr. Stockdale, at that time, ask you when you settled upon and improved the land?

Ans. He asked me.

Int. 7th. Can you write?

Ans. I can neither read nor write.

Int. 8th. Did you sign that pre-emption paper?

Ans. I put my finger to the pen and made a mark.

Int. 9th. Did you know what it was you were making a mark to?

Ans. It was the paper he was giving to me to make a pre-
327 emption on the land; that was what I wanted.

Int. 10th. When you went to the land office to file this pre-emption, and when you touched the pen that made the mark to that paper, did you take the paper away with you?

Ans. I took a paper away with me, and he had the other.

Int. 11th. Did you make your mark to more than one paper at that time?

Ans. I cannot say; but to the best of my knowledge, I did.

Int. 12. Did you make your mark to two applications to pre-empt this land?

Ans. I can't recollect.

Int. 13th. Was the paper that you made your mark to in the
328 register's office read over to you before you made your mark?

Ans. I do not remember.

Int. 14th. Were you told before you made your mark to the paper, what was in it?

Ans. I do not recollect.

Int. 15th. At the time of your husband's death, how many children did he leave? and give their names and ages.

Ans. He left five, three boys and two girls; William, who is now thirty-seven years old; Mary, who is thirty-two; Catherine, who is twenty-nine; Peter, who is twenty-seven, and Andrew, who is twenty-three.

Int. 16th. State if, at the time of your husband's death, these children were all living at home.

Ans. They were.

329 Int. 17. State what improvements were on this land at the time of your husband's death.

Ans. We had a log house and stable and shed and out-houses, and about thirty acres broke and fenced.

Int. 18th. Where were your husband and yourself born?

Ans. In Ireland.

Int. 19. State if you know how old your husband was when he came to this country.

Ans. He was born in 1798, and came to this country thirty-five years ago; you can make it out from that.

Re-examined by defendant:

Int. 1st. When Mr. Stockdale asked you when you settled upon this land, what did you tell him?

Ans. I told him always that he came on it in 1855.

her
HANNAH + RILEY.
mark.

Attest: J. A. O. YEOMAN.

330 Sworn to before me, and subscribed in my presence by the above-named Hannah Riley, on this, the 29th day of September, A. D. 1869; and I further certify that the whole of her deposition was carefully read over to her before she signed by mark.

J. A. O. YEOMAN,
Commissioner.

331 *Exhibit "A," referred to in the deposition of Woolsey Welles.—Power of Attorney.*

Know all men by these presents, that I, William B. Welles, of the city of New York, have appointed, and do by these presents constitute

Int. 4th. In what year did your husband die?

Ans. On the 7th day of June, 1857.

Int. 5th. Did he occupy and improve these premises from the
323 time he moved onto them until the time of his death?

Ans. Yes, he lived there until he died there. It was in that house he died.

Int. 6th. State if you know whether he ever applied at the land office in this place to enter the land.

Ans. I cannot say.

Int. 7th. State when you first applied.

Ans. I applied to Stockdale, and Logan, the clerk in the office, give me writings, but I have lost them. I think it was about a year after my husband's death.

Int. 8th. When Mr. Logan prepared the declaratory statement produced here to-day, did you state to him and Mr. Stockdale that you settled upon the land in 1855?

(Objected to by plaintiff's solicitors as immaterial and leading.)

324 Ans. I stated to Mr. Stockdale that I settled upon the land in 1855.

Int. 9. State how long you had been acquainted with Mr. Stockdale, and what means he had of knowing how long you had been upon the land.

(Objected to by pl'ff's solicitors, for the reason that it is immaterial.)

Ans. I had been acquainted with him in 1857; my daughter lived with him. He was out at my house on different times—he & his wife.

Int. 10th. State whether at the time you filed your declaratory statement you knew that Mr. Logan had made the date of your settlement in 1860 instead of 1855.

Ans. I did not know anything about it.

Cross-examination by plaintiff's solicitors:

325 Int. 1st. State whether or not you are the defendant in this cause.

Ans. I am.

Int. 2d. State whether you ever filed any other pre-emption or declaratory statement in the Fort Dodge land office than the one referred to here to-day.

Ans. No, sir; I never did.

Int. 3d. State if you knew, when you filed this declaratory statement, what was in it.

Ans. All that I knew what was in it that I pre-empted in the land office to get this land.

Int. 4th. State whether or not Mr. Stockdale, the register at the time you made this pre-emption, asked you any questions.

326 Ans. He asked me if I had ever pre-empted before.

Int. 5th. Did he not ask you what land you wanted to pre-empt?

Ans. He asked me the section and the number, and I told him.

Int. 6th. Did Mr. Stockdale, at that time, ask you when you settled upon and improved the land?

Ans. He asked me.

Int. 7th. Can you write?

Ans. I can neither read nor write.

Int. 8th. Did you sign that pre-emption paper?

Ans. I put my finger to the pen and made a mark.

Int. 9th. Did you know what it was you were making a mark to?

Ans. It was the paper he was giving to me to make a pre-
327 emption on the land; that was what I wanted.

Int. 10th. When you went to the land office to file this pre-emption, and when you touched the pen that made the mark to that paper, did you take the paper away with you?

Ans. I took a paper away with me, and he had the other.

Int. 11th. Did you make your mark to more than one paper at that time?

Ans. I cannot say; but to the best of my knowledge, I did.

Int. 12. Did you make your mark to two applications to pre-empt this land?

Ans. I can't recollect.

Int. 13th. Was the paper that you made your mark to in the
328 register's office read over to you before you made your mark?

Ans. I do not remember.

Int. 14th. Were you told before you made your mark to the paper, what was in it?

Ans. I do not recollect.

Int. 15th. At the time of your husband's death, how many children did he leave? and give their names and ages.

Ans. He left five, three boys and two girls; William, who is now thirty-seven years old; Mary, who is thirty-two; Catherine, who is twenty-nine; Peter, who is twenty-seven, and Andrew, who is twenty-three.

Int. 16th. State if, at the time of your husband's death, these children were all living at home.

Ans. They were.

329 Int. 17. State what improvements were on this land at the time of your husband's death.

Ans. We had a log house and stable and shed and out-houses, and about thirty acres broke and fenced.

Int. 18th. Where were your husband and yourself born?

Ans. In Ireland.

Int. 19. State if you know how old your husband was when he came to this country.

Ans. He was born in 1798, and came to this country thirty-five years ago; you can make it out from that.

Re-examined by defendant:

Int. 1st. When Mr. Stockdale asked you when you settled upon this land, what did you tell him?

Ans. I told him always that he came on it in 1855.

her
HANNAH + RILEY.
mark.

Attest: J. A. O. YEOMAN.

330 Sworn to before me, and subscribed in my presence by the above-named Hannah Riley, on this, the 29th day of September, A. D. 1869; and I further certify that the whole of her deposition was carefully read over to her before she signed by mark.

J. A. O. YEOMAN,
Commissioner.

331 *Exhibit "A," referred to in the deposition of Woolsey Welles.—Power of Attorney.*

Know all men by these presents, that I, William B. Welles, of the city of New York, have appointed, and do by these presents constitute

and appoint, Woolsey Welles, of Fort Dodge, in the State of Iowa, my true and lawful attorney for me and in my name and behalf to contract for the sale of any tracts, pieces, or parcels of land by me owned in the said State of Iowa, on the terms and conditions which I have prescribed to him, and receive payment of any and all sums of principal and interest due, or to become due, on any of such contracts for the sale of such lands, reserving to myself the execution of the deeds of conveyance to purchasers of said lands whenever the same shall be fully paid for;
332 and also to take such proceedings at law or in equity as may or shall be necessary, from time to time, to put out out of possession any person or persons who may occupy any of such lands without the warrant from me or my said attorney, and to protect said lands from waste, trespass, or damages by any person or persons whatsoever.

Witness my hand and seal, at New York, the 8th day of April, 1859.

[SEAL.] W. B. WELLES.

STATE OF NEW YORK, *County of New York, ss:*

I certify that I, the subscriber, am a commissioner for the State of Iowa in and for the State of New York; that on the 8th day of April, 1859, personally appeared before me William B. Welles, who is personally known by me to be the identical person whose name is affixed
333 to the within power of attorney, and acknowledged the same to be his voluntary act and deed for the purposes herein specified.

Given under my hand and official seal on the day and date above written.

{ JAMES C. PATTERSON, COMMISSIONER OF DEEDS FOR IOWA. SEAL. }

JAS. C. PATTERSON,
Commissioner for Iowa in New York.

Filed for record April 19, 1859, and recorded in "Deed Book" D, page 62 & 63.

E. G. MORGAN, *Recorder.*

"WEBSTER COUNTY, *Iowa:*"

Filed for record April 27th, 1859, at 7 o'clock p. m., & recorded in Record Book B, page 87.

C. W. HAMILTON,
Recorder Boone Co., Iowa.

Fees paid.

I hereby certify that I have compared the foregoing with Exhibit "A," and that the same is a true copy thereof.

J. A. O. YEOMAN,
Commissioner.

334 *Exhibit "B."*

The United States of America, to all to whom these presents shall come, greeting:

Whereas, in pursuance of the act of Congress approved March 3, 1855, entitled "An act in addition to certain acts granting land to certain officers and soldiers who have been engaged in the military service of the United States," there has been deposited in the General Land Office warrant No. 99,769 for 160 acres, in favor of Asahel Bingham, private Captain Hill's company, Vermont militia, war 1812, with evidence that the same has been duly located upon the northwest quarter of section thirty-three, in township eighty-nine north, of range twenty-eight

west, in the district of Iowa, subject to sale at Fort Dodge, Iowa, containing one hundred and sixty acres, according to the official plats of the survey of the said land returned to the General Land Office
335 by the surveyor general, the said warrant having been assigned by the said Asahel Bingham to Hannah Riley, in whose favor said tract has been located; now know ye that there is therefore granted by the United States unto the said Hannah Riley as assignee as aforesaid, and to her heirs and assigns forever.

In testimony whereof, I, Abraham Lincoln, President of the United States of America, have caused these letters to be made patent, and the seal of the General Land Office to be hereunto affixed.

Given under my hand, at the city of Washington, the fifteenth day of October, in the year of our Lord, one thousand eight hundred and sixty-three, and of the independence of the United States the eighty-eighth.

ABRAHAM LINCOLN,
By W. O. STODDARD, *Sec'y.*

By the President:

{ SEAL OF THE UNITED STATES, G. L. O. }

J. M. GRANGER,
Recorder of the General Land Office.

Recorded vol. 500, page 1979.

336 MAY 30TH, 1862.

To HANNAH RILEY.

STATE OF IOWA, *Webster County, ss:*

Received for record this 11th day of November, A. D. 1863, and recorded in Deed Book "E," page 400.

J. GRANGER, *Recorder.*

Fees, $\frac{00}{100}$. Paid.

I hereby certify that I have compared the foregoing with exhibit, and that the same is a true copy.

J. A. O. YEOMAN,
Commissioner.

WILLIAM B. WELLES, COMPLAINANT,
vs.
HANNAH RILEY, DEFENDANT.

I hereby certify that the foregoing are the depositions of witnesses on the part of both complainant and defendant, sworn and examined before me in the above-entitled cause, and & the deposition of each witness was carefully read over to him by me before signing the same.

Dated at Fort Dodge, Iowa, on the 29th day of September, A. D. 1869.

J. A. O. YEOMAN,
Commissioner.

Fees, $10\frac{00}{100}$.

337 WILLIAM B. WELLES
vs.
HANNAH RILEY.

It is stipulated that the annexed certified copy of lists of lands furnished and certified by Samuel G. Kirkwood, governor of Iowa, to J.

M. Edmunds, Commissioner of the General Land Office, may be read on the hearing of this action, subject to all objections to the competency or relevency thereof which could be made to the original if offered in evidence, and that the annexed certified copy, after the hearing of this cause, may be withdrawn, and a sworn copy thereof placed with the clerk in its place and stead.

Oct. 27, 1869

FINCH & RIVERS,
Solr's for Pl'ff.
GALUSHA PARSONS,
Def't Solister.

338 GENERAL LAND OFFICE,
June 16th, 1865.

I, J. M. Edmunds, Commissioner of the General Land Office, do hereby certify that the annexed copy of a list of Des Moines River lands above the mouth of the Racoon Fork, sold by the State of Iowa, is a true and literal exemplification of the original on file in this office.

In testimony, I have hereunto subscribed my name, and caused the seal of this office to be affixed, on the day and year above written.

[SEAL.] J. M. EDMUNDS,
Commissioner of the General Land Office.

340 Parts of section.	Section.	Township.	Range.	Acres.	100ths.	Price per acre.	Amount.	Date of sale.	Name of purchaser.	To whom patented.	Date of patent.	No. of patent.
W. ½ of	7	79	23	349	22	1 25	.....	Oct. 1, '53	Benjamin F. Allen	Benjamin F. Allen	Sept. 1, '53	3807
S. E. ¼	"	"	"	160	00	.....	636 80	Oct. 1, '53	Benjamin F. Allen	Foster Elliott	July 1, '58	3807
S. E. of N. E. ¼	"	"	"	80	00	1 25	100 00	Oct. 13, '53	Foster Elliott	Benjamin F. Allen	July 1, '58	3901
N. W. ¼ of N. E. ¼	"	"	"	40	00	1 25	50 00	Nov. 22, '53	Benjamin F. Allen	Charles Anderson	July 1, '58	4220
N. E. ¼ of S. W. ¼	17	"	"	40	00	1 25	50 00	Nov. 15, '53	Charles Anderson	Benjamin Bryant	July 1, '58	4141
N. W. ¼ of N. W. ¼	"	"	"	40	00	1 25	50 00	Nov. 4, '53	Benjamin Bryant	Jenkins W. Morris	July 1, '58	4032
S. W. ¼ of N. W. ¼	"	"	"	40	00	1 25	50 00	Nov. 5, '53	Jenkins W. Morris	" "	July 1, '58	4046
S. E. ¼ of N. W. ¼	"	"	"	40	00	1 25	50 00	Nov. 11, '53	" "	Joseph Harden	July 1, '54	4096
S. W. ¼ of N. E. ¼	"	"	"	40	00	1 25	50 00	March 12, '53	Joseph Harden	George Doran	July 1, '58	3358
N. W. ¼ of S. E. ¼	"	"	"	40	00	1 25	50 00	June 6, '53	George Doran	Seth Richards	July 1, '58	3480
N. W. ¼ of S. W. ¼	"	"	"	40	00	1 25	50 00	Nov. 7, '53	Seth Richards	William Lewis	July 1, '58	3820
S. W. ¼ of S. W. ¼	31	80	23	47	34	1 25	59 17	Oct. 1, '53	William Lewis	Joseph C. Thompson	July 1, '58	3820
N. W. ¼ of S. W. ¼	31	"	"	47	78	1 25	120 00	Oct. 13, '53	Joseph C. Thompson	" "	" "	3900
S. W. ¼ of N. W. ¼	"	"	"	48	22	1 25	" "	" "	" "	Sam'l Gray	Feb. 16, '53	2973
Lot No. 6	9	78	24	43	75	1 25	54 68¾	July 19, '52	Sam'l Gray	Phineas M. Casady	July 1, '53	3592
S. ½	17	"	"	320	00	1 25	400 00	July 1, '53	Phineas M. Casady	Francis C. Grimmel	July 1, '58	3470
E. ½ of N. E. ¼	19	"	"	80	00	1 25	100 00	June 1, '53	Francis C. Grimmel	Phineas M. Casady	July 1, '58	3564
W. ½ of N. E. ¼	"	"	"	80	00	1 25	100 00	June 25, '53	Phineas M. Casady	Phineas M. Casady	Feb. 16, '53	2855
N. E. ¼ of N. W. ¼, W. ½ of N. W. ¼	19	"	"	122	83	1 25	158 35	M'ch 25, '52	Pheneas M. Casady	Charles T. Sherman	July 12, '59	3559
S. E. ¼ of N. W. ¼	19	"	"	206	44	1 25	258 05	June 23, '53	Chas. T. Sherman	Phineas M. Casady	July 1, '58	3564
S. W. ¼ of	19	"	"	"	"	"	"	"	"	Jesse Williams	July 1, '58	2952
N. ½ of S. E. ¼	19	"	"	80	00	1 25	100 00	June 25, '53	Phineas M. Casady	" "	Feb. 16, '53	2953
S. ½ of S. E. ¼	"	"	"	80	00	2 00	160 00	M'ch 31, '52	Jesse Williams	Joseph B. Stewart	Sept. 1, '58	3908
N. W. ¼ of N. W. ¼	21	"	"	40	00	2 00	80 00	" "	" "	Jesse Williams	Feb. 16, '53	3809
W. ½ of N. E. ¼	29	"	"	80	00	1 25	200 00	Oct. 1, '53	Joseph B. Stewart	Reuben Jones	July 1, '58	2954
E. ½ of N. W. ¼	29	"	"	80	00	"	"	"	"	" "	July 1, '58	3653
N. W. ¼ of N. W. ¼	29	"	"	40	00	2 00	80 00	M'ch 31, '52	Jesse Williams	Robert Meek	July 1, '58	3682
W. ½ of S. W. ¼	29	"	"	80	00	1 25	100 00	July 28, '53	Reuben Jones	Seth Richards	July 1, '58	4062
E. ½ of S. W. ¼	29	"	"	80	00	1 25	100 00	Aug. 11, '53	" "	Byron Rice	July 1, '58	4219
N. E. ¼, N. ½ of S. E. ¼, & E. ½ of N. W. ¼	31	"	"	320	00	1 25	400 00	Nov. 9, '53	Robert Meek	Enoch Wood	July 1, '58	3873
N. ½ of N. E. ¼, & S. E. ¼ of N. E. ¼	1	79	24	133	45	1 25	166 81	Nov. 22, '53	Seth Richards	Stephen Devilbiss	July 1, '58	3582
S. W. ¼ of N. E. ¼	1	"	"	40	00	1 25	50 00	Oct. 8, '53	Byron Rice	" "	Feb. 16, '53	2856
N. ½ of N. W. ¼	1	"	"	95	17	1 25	118 94	June 29, '53	Enoch Wood	" "	" "	"
S. ½ of S. W. ¼	1	"	"	80	00	1 25	100 00	M'ch 25, '52	Stephen Devilbiss	" "	" "	"

341 Parts of section.	Section.	Township.	Range.	Acres.	100ths.	Price per acre.	Amount.	Date of sale.	Name of purchaser.	To whom patented.	Date of patent.	No. of patent.
W. ½ of S. E. ¼	1	79	24	80	00	1 25	100 00	Oct. 3, '53	Byron Rice	Byron Rice	July 1, '58	3847
E. ½ of S. E. ¼	1	"	"	80	33	1 25	100 00	Oct. 1, '53	James Halterman	James Halterman	July 1, '58	3819
S. W. ¼ of N. W. ¼	3	"	"	40	00	1 25	80 00	M'ch 25, '52	John Hays	John Hays	Feb. 16, '53	2869
Lot No. 5	5	"	"	49	70	1 25	62 13	Oct. 27, '53	Joseph B. Stewart	Joseph B. Stewart	Sept. 1, '58	3980
Lot No. 6	5	"	"	32	00	1 25	40 00	Nov. 9, '53	Daniel Rittgers	Daniel Rittgers	July 1, '58	4069
N. W. ¼ of S. W. ¼	5	"	"	40	00	1 25	50 00	Aug. 9, '53	Thomas McMullin	Thomas McMullin	Feb. 1, '58	3680
N. E. ¼ of N. E. ¼	7	"	"	40	00	1 25	50 00	M'ch 25, '52	Walter Oyler	Walter Oyler	Feb. 16, '53	2857
W. ½ of N. E. ¼	7	"	"	80	00	1 25	100 00	M'ch 25, '52	J. M. Lawson	Jacob M. Lawson	Feb. 16, '53	2858
S. W. ¼ of S. E. ¼	7	"	"	40	00	1 25	50 00	M'ch 25, '52	Jonathan W. Braner	Jonathan W. Braner	Feb. 16, '53	2859
S. W. ¼ of S. E. ¼	7	"	"	242	29	1 25	302 86½	M'ch 25, '52	Joseph Hiner	Joseph Hiner	Feb. 16, '53	2860
S. W. ¼ of S. ½ of N. W. ¼	7	"	"	81	13	1 25	101 41½	Oct. 12, '52	Daniel Fisher	Daniel Fisher	July 1, '58	3109
N. ½ of N. W. ¼	7	"	"	40	00	1 25	50 00	June 4, '53	Nathaniel J. Powell	Nathaniel J. Powell	July 1, '58	3574
S. E. ¼ of S. E. ¼	11	"	"	80	00	1 25	100 00	June 28, '53	David Timmerly	David Timmerly	July 1, '58	3574
W. ½ of N. W. ¼											Feb. 16, '53	3042
W. ½ of S. E. ¼	11	"	"	120	00	1 25	150 00	Aug. 18, '53	Allen W. Hobson	Allen W. Hobson		
S. E. ¼ of S. W. ¼	11	"	"	80	00	1 25	100 00	M'ch 25, '52	Nathaniel J. Powell	Nathaniel J. Powell	Feb. 16, '53	2870
W. ½ of N. E. ¼	13	"	"	160	00	1 25	200 00	Oct. 13, '53	Benjamin F. Allen	Benjamin F. Allen	Sept. 1, '58	3898
N. E. ¼ of	13	"	"	80	00	1 25	100 00	" 18, "	" " "	" " "	Sept. 1, '58	3923
E. ½ of N. W. ¼	13	"	"	160	00	1 25	200 00	" " "	Jenkins W. Morris	Jenkin W. Morris	July 1, '58	3924
S. E. ¼ of	13	"	"	80	00	1 25	100 00	" " "	Benjamin F. Pogue	Benjamin F. Pogue	July 1, '58	3925
W. ½ of S. W. ¼	13	"	"	80	00	1 25	100 00	Nov. 11, '53	Jenkin W. Morris	Jenkin W. Morris	Sept. 1, '58	4095
E. ½ of S. W. ¼	15	"	"	480	00	1 25	600 00	M'ch 25, '52	Henry S. Buzick	Henry S. Buzick	Feb. 16, '53	2861
N. ½ of S. W. ¼	15	"	"	40	00	1 25	50 00	" " "	Lawrence F. Tilson	Lawrence F. Tilson	Feb. 16, '53	2862
S. E. ¼ of S. E. ¼	15	"	"	120	00	1 25	150 00	M'ch 25, '52	Nathan'l J. Powell	Nathan'l J. Powell	Feb. 16, '53	2863
N. E. ¼ of S. E. ¼, & W. ½ of S. E. ¼	17	"	"	208	25	1 25	260 31	M'ch 25, '52	James Campbell	James Campbell	Feb. 16, '53	2864
Lots No. 7, 8, & 9, W. ½ of S. W. ¼, S. E. ½ of S. W. ¼.	19	"	"	160	00	1 25	200 00	" " "	Wm. R. Close	William R. Close	Feb. 16, '53	2865
S. E. ¼ of	19	"	"	160	00	1 25	200 00	" " "	Henry Hentsenpiller	Henry Hintsenpiller	Feb. 16, '53	2866
N. E. ¼ of	"	"	"	126	68	1 25	158 35	" " "	Phineas M. Casady	Phineas M. Casady	" " "	2855
N. E. ¼ of N. W. ¼, & W. ½ of N. W. ¼.	19	"	"	40	00	1 25	50 00	Dec. 2, '53	Seth Richards	Seth Richards	May 31, '59	4297
S. E. ¼ of N. W. ¼	19	"	"	163	91	1 25	204 83¾	Oct. 12, '52	Daniel Fisher	Daniel Fisher	Feb. 16, '53	3108¼
S. W. ¼ of	21	"	"	40	00	1 25	50 00	July 19, '52	Albert G. Laymen	Albert G. Laymen	Feb. 16, '53	2963
S. W. ¼ of N. W. ¼	21	"	"	40	00	1 25	50 00	" " "	Jesse S. Dicks	Jesse S. Dicks	Feb. 16, '53	2964
N. W. ¼ of S. W. ¼	21	"	"	40	00	1 25	50 00	Aug. 15, '53	" " "	" " "	July 1, '58	3698
S. W. ¼ of S. W. ¼												

Parts of section.	Section.	Township.	Range.	Acres.	100ths.	Price per acre.	Amount.	Date of sale.	Name of purchaser.	To whom patented.	Date of patent.	No. of patent.
S. E. ¼ & S. ½ of N. E. ¼, E. ½ of N.W. ¼, N. W. ¼ of N. E. ¼, N. E. ¼ of N. W. ¼.	23	79	24	400	00	1 25	500 00	July 10, '53	Thomas Hoffman	Thomas Hoffman	July 1, '58	3276
N. W. ¼ of N. W. ¼	23	"	"	40	00	1 25	50 00	" 19, '52	Stephen Brook	Stephen Brook	Feb. 16, '53	2962
S. W. ¼ of N. W. ¼ & N. W ¼ S. W. ¼	23	"	"	80	00	1 25	100 00	Dec. 10, '52	Stephen Brook	Stephen Brook	July 1, '58	3222
S. E. ¼ of S. W. ¼	23	"	"	40	00	1 25	50 00	" " "	Benjamin F. Bowen	Benjamin F. Bowen	July 1, '58	3223
S. W. ¼ of S. W. ¼	23	"	"	40	00	1 25	50 00	July 19, '52	James Houlterman	James Halterman	Feb. 16, '53	2984
S. W. ¼ of N. W. ¼	25	"	"	40	00	1 25	50 00	Nov. 2, '53	Edwin Tyler	Edwin Tyler	July 1, '58	4022
S. E. ¼ of N. W. ¼	25	"	"	40	00	1 25	50 00	" 15, "	Jenkin W. Morris	Jenkin W. Morris	July 1, '58	4146
N. W. ¼ of S. W. ¼	25	"	"	40	00	1 25	50 00	Aug. 15, "	Joseph B. Stewart	Joseph B. Stewart	Sept. 1, '58	3699
S. ½ of S. W. ¼	25	79	24	80	00	1 25	100 00	Oct. 21, '52	A. Scroggs & W. T. Scroggs	A. Scroggs & W. T. Scroggs	July 1, '58	3123
N. ½ of N. W	29	"	"	80	00	1 25	100 00	March 25, '52	Nathaniel J. Powell	Nathaniel J. Powell	Feb. 16, '53	2867
N. ½ of N. E	29	"	"	80	00	1 25	100 00	" " "	Wm. W. Jones	William W. Jones	Feb. 16, '53	2868
N. W. f'l ¼ of	31	"	"	169	96	1 25	212 45	Nov. 7, '53	Joseph B. Stewart	Joseph B. Stewart	Sept. 1, '58	4051
S. ½ of S. W. ¼	7	80	24	86	61	1 25	108 26	July 22, '52	Albert W. Wasson	Albert W. Wasson	Feb. 16, '53	3018
S. W. ¼	9	"	"	160	00	1 25	200 00	Nov. 6, '52	Jacob Wilson	Jacob Wilson	July 1, '58	3181
N. W. ¼ of	15	"	"	160	00	1 25	200 00	" " "	" "	" "	July 1, '58	3182
S. E. ¼ of	15	"	"	160	00	1 25	200 00	" 15, '53	Robert L. Tidrick	Robert L. Tidrick	July 1, 1858	4142
N. E. ¼ of N. E. ¼	17	"	"	40	00	1 25	50 00	Dec. 3, '52	George W. Hall	George W. Hall	July 1, '58	3217
S. E. ¼ of N. E. ¼	19	"	"	40	00	1 25	50 00	July 14, '53	Samuel Brown	Samuel Brown	July 1, '58	3279
N. E. ¼ of N. E. ¼	19	"	"	40	00	1 25	50 00	Oct. 28, '53	Joseph B. Stewart	Joseph B. Stewart	Sept. 1, '58	3990
S.W. ¼ of N.W. ¼ & N.W. ¼ of S.W. ¼	23	"	"	80	00	1 25	100 00	Nov. 29, '53	Seth Richards	Seth Richards	July 1, '58	4279
S. W. ¼ of S. W. ¼	23	"	"	40	00	1 25	50 00	" 11, '52	Ives Marks	Ives Marks	July 1, 1858	3195
E. ½ of S. E. ¼	23	"	"	80	00	1 25	100 00	June 16, '53	Ezekiel Hannah	Ezekiel Hannah	July 1, 1858	3515
N. E. ¼ of	25	"	"	160	00	1 25	200 00	Dec. 5, '53	Calvin Thornton	Calvin Thornton	May 31, '59	4315
W. ½ of	25	80	24	320	00	1 25	400 00	Nov. 15, '53	Robert L. Tidrick	Robert L. Tidrick	July 1, '58	4143
N. E. ¼ of N. E. ¼	27	"	"	40	00	1 25	50 00	Nov. 29, '53	Seth Richards	Seth Richards	July 1, '58	4280
N. E. ¼ of S. E. ¼	27	"	"	40	00	1 25	50 00	July 19, '53	Nathaniel J. Powell	Nathaniel J. Powell	July 1, '58	3633
S. E. ¼ of S. E. ¼	27	"	"	40	00	1 25	50 00	Nov. 6, '52	Edmund Webb	Edmund Webb	July 1, '58	3633
N. W. ¼ of S. E. ¼	27	"	"	40	00	1 25	50 00	Oct. 21, '52	Lysander Harvey	Lysander Harvey	July 1, '58	3124
S. W. ¼ of S. E. ¼	27	"	"	40	00	1 25	50 00	M'ch 26, '52	" "	" "	July 1, '58	2872
S. W. ¼ of S. W. ¼	27	"	"	40	00	1 25	50 00	Nov. 16, '53	" "	" "	July 1, '58	4126
E. ½ of S. E. ¼	29	"	"	80	00	1 25	100 00	M'ch 26, '52	Ives Marks	Ives Markes	Feb. 16, '53	2877
S. W. ¼ of S. E. ¼	29	"	"	40	00	1 25	50 00	" " "	Coonrad Diete	Coonrad Diete	Feb. 16, '53	2873
Lot No. 2	31	"	"	37	16	1 25	46 45	" " "	Richard S. Proutz	Richard S. Proutz	Feb. 16, '53	2879

341 Parts of section.	Section.	Township.	Range.	Acres.	100ths.	Price per acre.	Amount.	Date of sale.	Name of purchaser.	To whom patented.	Date of patent.	No. of patent.
W. ½ of S. E. ¼	1	79	24	80	00	1 25	100 00	Oct. 3, '53	Byron Rice	Byron Rice	July 1, '58	3847
E. ½ of S. E. ¼	1	"	"	80	00	1 25	100 00	Oct. 1, '53	James Halterman	James Halterman	July 1, '58	3819
S. W. ¼ of N. W. ¼	3	"	"	40	00	1 25	80 00	M'ch 25, '52	John Hays	John Hays	Feb. 16, '53	2869
Lot No. 5	5	"	"	49	70	1 25	62 13	Oct. 27, '53	Joseph B. Stewart	Joseph B. Stewart	Sept. 1, '58	3980
Lot No. 6	5	"	"	32	00	1 25	40 00	Nov. 9, '53	Daniel Rittgers	Daniel Rittgers	July 1, '58	4069
N. W. ¼ of S. W. ¼	5	"	"	40	00	1 25	50 00	Aug. 9, '53	Thomas McMullin	Thomas McMullin	Feb. 1, '58	3680
N. E. ¼ of N. E. ¼	7	"	"	40	00	1 25	50 00	M'ch 25, '52	Walter Oyler	Walter Oyler	Feb. 16, '53	2857
W. ½ of N. E. ¼	7	"	"	80	00	1 25	100 00	M'ch 25, '52	J. M. Lawson	Jacob M. Lawson	Feb. 16, '53	2858
S. W. ¼ of S. E. ¼	7	"	"	40	00	1 25	50 00	M'ch 25, '52	Jonathan W. Braner	Jonathan W. Braner	Feb. 16, '53	2859
S. W. ¼ of S. ½ of N. W. ¼	7	"	"	242	29	1 25	302 86¼	M'ch 25, '52	Joseph Hiner	Joseph Hiner	Feb. 16, '53	2860
N. ½ of N. W. ¼	7	"	"	81	13	1 25	101 41¼	Oct. 12, '52	Daniel Fisher	Daniel Fisher	July 1, '58	3109
S. E. ¼ of S. E. ¼	7	"	"	40	00	1 25	50 00	June 4, '53	Nathaniel J. Powell	Nathaniel J. Powell	July 1, '58	3574
W. ½ of N. W. ¼	11	"	"	80	00	1 25	100 00	June 28, '53	David Timmerly	David Timmerly	July 1, '58	3574
W. ¼ of S. E. ¼ / S. E. ¼ of S. W. ¼	11	"	"	120	00	1 25	150 00	Aug. 18, '53	Allen W. Hobson	Allen W. Hobson	Feb. 16, '53	3042 / 3042
W. ½ of N. E. ¼	11	"	"	80	00	1 25	100 00	M'ch 25, '52	Nathaniel J. Powell	Nathaniel J. Powell	Feb. 16, '53	2870
N. E. ¼ of	13	"	"	160	00	1 25	200 00	Oct. 13, '53	Benjamin F. Allen	Benjamin F. Allen	Sept. 1, '58	3898
E. ½ of N. W. ¼	13	"	"	80	00	1 25	100 00	" 18, "	" " "	" " "	Sept. 1, '58	3923
S. E. ¼ of	13	"	"	160	00	1 25	200 00	" " "	" " "	" " "	July 1, '58	3924
W. ½ of S. W. ¼	13	"	"	80	00	1 25	100 00	" " "	Jenkins W. Morris	Jenkin W. Morris	July 1, '58	3925
E. ½ of S. W. ¼	13	"	"	80	00	1 25	100 00	Nov. 11, '53	Benjamin F. Pogue	Benjamin F. Pogue	July 1, '58	4095
N. ½ of S. W. ¼	15	"	"	480	00	1 25	600 00	M'ch 25, '52	Jenkin W. Morris	Jenkin W. Morris	Sept. 1, '58	2861
S. E. ¼ of S. E. ¼	15	"	"	40	00	1 25	50 00	" " "	Henry S. Buzick	Henry S. Buzick	Feb. 16, '53	2862
N. E. ¼ of S. E. ¼, & W. ½ of S. E. ¼	15	"	"	120	00	1 25	150 00	M'ch 25, '52	Lawrence F. Tilson	Lawrence F. Tilson	Feb. 16, '53	2863
Lots No. 7, 8, & 9, W. ½ of S. W. ¼, S. E. ¼ of S. W. ¼.	17	"	"	208	25	1 25	260 31	M'ch 25, '52	Nathan'l J. Powell	Nathan'l J. Powell	Feb. 16, '53	2864
S. E. ¼ of	19	"	"	160	00	1 25	200 00	" " "	James Campbell	James Campbell	Feb. 16, '53	2865
N. E. ¼ of	19	"	"	160	00	1 25	200 00	" " "	Wm. R. Close	William R. Close	Feb. 16, '53	2866
N. E. ¼ of N. W. ¼, & W. ½ of N. W. ¼.	"	"	"	126	68	1 25	158 35	" " "	Henry Hentsenpiller	Henry Hintsenpiller	Feb. 16, '53	2855
S. E. ¼ of N. W. ¼	19	"	"	40	00	1 25	50 00	Dec. 2, '53	Phineas M. Casady	Phineas M. Casady	" " "	
S. W. ¼ of	19	"	"	163	91	1 25	204 83¾	Oct. 12, '52	Seth Richards	Seth Richards	May 31, '59	4297
S. W. ¼ of N. W. ¼	21	"	"	40	00	1 25	50 00	July 19, '52	Daniel Fisher	Daniel Fisher	Feb. 16, '53	3108½
N. W. ¼ of S. W. ¼	21	"	"	40	00	1 25	50 00	" " "	Albert G. Laymen	Albert G. Laymen	Feb. 16, '53	2963
S. W. ¼ of S. W. ¼	21	"	"	40	00	1 25	50 00	Aug. 15, '53	Jesse S. Dicks	Jesse S. Dicks	Feb. 16, '53	2964
									" " "	" " "	July 1, '58	3698

Parts of section.	Section.	Township.	Range.	Acres.	100ths.	Price per acre.	Amount.	Date of sale.	Name of purchaser.	To whom patented.	Date of patent.	No. of patent.
S. E. ¼ & S. ½ of N. E. ¼, E. ½ of N.W. ¼, N. W. ¼ of N. E. ¼, N. E. ¼ of N. W. ¼,	23	79	24	400	00	1 25	500 00	July 10, '53	Thomas Hoffman	Thomas Hoffman	July 1, '58	3276
N. W. ¼ of N. W. ¼	23	"	"	40	00	1 25	50 00	" 19, '52	Stephen Brook	Stephen Brook	Feb. 16, '53	2962
S. W. ¼ of N. W. ¼ & N. W ¼ S. W. ¼	23	"	"	80	00	1 25	100 00	Dec. 10, '52	Stephen Brook	Stephen Brook	July 1, '58	3222
S. E. ¼ of S. W. ¼	23	"	"	40	00	1 25	50 00	" " "	Benjamin F. Bowen	Benjamin F. Bowen	July 1, '58	3223
S. W. ¼ of S. W. ¼	23	"	"	40	00	1 25	50 00	July 19, '52	James Houlterman	James Halterman	Feb. 16, '53	2984
S. W. ¼ of N. W. ¼	25	"	"	40	00	1 25	50 00	Nov. 2, '53	Edwin Tyler	Edwin Tyler	July 1, '58	4022
S. E. ¼ of N. W. ¼	25	"	"	40	00	1 25	50 00	" 15, "	Jenkin W. Morris	Jenkin W. Morris	July 1, '58	4146
N. W. ¼ of S. W. ¼	25	"	"	40	00	1 25	50 00	Aug. 15, "	Joseph B. Stewart	Joseph B. Stewart	Sept. 1, '58	3699
S. ½ of S. W. ¼	25	79	24	80	00	1 25	100 00	Oct. 21, '52	A. Scroggs & W. T. Scroggs	A. Scroggs & W. T. Scroggs	July 1, '58	3123
N. ½ of N. W	29	"	"	80	00	1 25	100 00	March 25, '52	Nathaniel J. Powell	Nathaniel J. Powell	Feb. 16, '53	2867
N. ½ of N. E	29	"	"	80	00	1 25	100 00	" " "	Wm. W. Jones	William W. Jones	Feb. 16, '53	2868
N. W. f'l ¼ of	31	"	"	169	96	1 25	212 45	Nov. 7, '53	Joseph B. Stewart	Joseph B. Stewart	Sept. 1, '58	4051
S. ½ of S. W. ¼	7	80	24	86	61	1 25	108 26	July 22, '52	Albert W. Wasson	Albert W. Wasson	Feb. 16, '53	3018
S. W. ¼	9	"	"	160	00	1 25	200 00	Nov. 6, '52	Jacob Wilson	Jacob Wilson	July 1, '58	3181
N. W. ¼ of	15	"	"	160	00	1 25	200 00	" " "	" "	" "	July 1, '58	3182
S. E. ¼ of	15	"	"	160	00	1 25	200 00	" 15, '53	Robert L. Tidrick	Robert L. Tidrick	July 1, 1858	4142
N. E. ¼ of N. E. ¼	17	"	"	40	00	1 25	50 00	Dec. 3, '52	George W. Hall	George W. Hall	July 1, '58	3217
S. E. ¼ of N. E. ¼	19	"	"	40	00	1 25	50 00	July 14, '53	Samuel Brown	Samuel Brown	July 1, '58	3279
N. E. ¼ of N. E. ¼	19	"	"	40	00	1 25	50 00	Oct. 28, '53	Joseph B. Stewart	Joseph B. Stewart	Sept. 1, '58	3990
S.W. ¼ of N.W. ¼ & N.W. ¼ of S.W. ¼	23	"	"	80	00	1 25	100 00	Nov. 29, '53	Seth Richards	Seth Richards	July 1, '58	4279
S. W. ¼ of S. W. ¼	23	"	"	40	00	1 25	50 00	" 11, '52	Ives Marks	Ives Marks	July 1, 1858	3195
E. ½ of S. E. ¼	23	"	"	80	00	1 25	100 00	June 16, '53	Ezekiel Hannah	Ezekiel Hannah	July 1, 1858	3515
N. E. ¼ of	25	"	"	160	00	1 25	200 00	Dec. 5, '53	Calvin Thornton	Calvin Thornton	May 31, '59	4315
W. ½ of	25	80	24	320	00	1 25	400 00	Nov. 15, '53	Robert L. Tidrick	Robert L. Tidrick	July 1, '58	4143
N. E. ¼ of N. E. ¼	27	"	"	40	00	1 25	50 00	Nov. 29, '53	Seth Richards	Seth Richards	July 1, '58	4280
N. E. ¼ of S. E. ¼	27	"	"	40	00	1 25	50 00	July 19, '53	Nathaniel J. Powell	Nathaniel J. Powell	July 1, '58	3633
S. E. ¼ of S. E. ¼	27	"	"	40	00	1 25	50 00	Nov. 6, '52	Edmund Webb	Edmund Webb	July 1, '58	3633
N. W. ¼ of S. E. ¼	27	"	"	40	00	1 25	50 00	Oct. 21, '52	Lysander Harvey	Lysander Harvey	July 1, '58	3124
S. W. ¼ of S. E. ¼	27	"	"	40	00	1 25	50 00	M'ch 26, '52	" "	" "	July 1, '58	2872
S. W. ¼ of S. W. ¼	27	"	"	40	00	1 25	50 00	Nov. 16, '53	" "	" "	July 1, '58	4126
E. ½ of S. E. ¼	29	"	"	80	00	1 25	100 00	M'ch 26, '52	Ives Marks	Ives Markes	Feb. 16, '53	2877
S. W. ¼ of S. E. ¼	29	"	"	40	00	1 25	50 00	" " "	Coonrad Diete	Coonrad Diete	Feb. 16, '53	2873
Lot No. 2	31	"	"	37	16	1 25	46 45	" " "	Richard S. Proutz	Richard S. Proutz	Feb. 16, '53	2879

343 Parts of section.	Section.	Township.	Range.	Acres.	100ths.	Price per acre.	Amount.	Date of sale.	Name of purchaser.	To whom patented.	Date of patent.	No. of patent.
Lot No. 3	31	80	24	58	07	1 25	191 07½	March 26,'52	Edwin R. Clapp	Edwin R. Clapp	Feb. 16,'53	2876
Lots No. 4 & 5	31	"	"	94	79							2876
Lot No. 6	31	"	"	45	85	1 25	57 31¼	" " "	John W. Wilkin	John W. Wilkin	Feb. 16,'53	2875
N. E. ¼ of N. W. ¼	31	"	"	40	00	1 25	50 00	" " "	Jonathan W. Braner	Jonathan W. Braner	Feb. 16,'53	2880
N. W. ¼ of N. W. ¼	31	"	"	43	10	1 25	53 87	Jan'y 27,'53	John Clary	John Clary	July 1,'58	3297
S. W. ¼ of N. W. ¼	31	"	"	42	96	1 25	53 70	Oct. 24,'53	Jacob Crum	Jacob Crum	July 1,'58	3958
W. ¼ of S. W. ¼	31	"	"	85	50	1 25	106 87½	M'ch 26,'52	Stephen T. Grase	Stephen T. Grase	Feb. 16,'53	2878
E. ½ of S. W. ¼	31	"	"	80	00	1 25	100 00	" " "	William H. McHenry	William H. McHenry	Feb. 16,'53	2879
W. ½ of N. W. ¼	33	"	"	80	00	1 25	100 00	" " "	Edwin R. Clapp	Edwin R. Clapp	Feb. 16,'53	2881
N. E. ¼ of N. W. ¼	33	"	"	40	00	1 25	50 00	" " "	Edmund Webb	Edmund Webb	Feb. 16,'53	2883
S. E. ¼ of N. W. ¼	33	"	"	40	00	1 25	50 00	" " "	Norman L. Vorse	Norman L. Vorse	Feb. 16,'53	2884
W. ½ of S. E. ¼	33	"	"	80	00	1 25	100 00	" " "	Hendrick Raseboon	Hendrick Raseboon	Feb. 16,'53	2884
E. ½ of N. E. ¼	35	"	"	80	00	1 25	100 00	" " "	Caleb Richardson	Caleb Richardson	July 1,'58	3989
N. W. ¼ of N. E. ¼	1	78	25	54	53	1 25	68 16¼	Oct. 28,'53	David Lamb	David Lamb	July 1,'58	3989
S. W. ¼ of N. E. ¼	1	"	"	40	00	1 25	50 00	" 5, "	Jno. W. Wilkin	John W. Wilkin	July 1,'58	3859
S. E. ¼ of N. E. ¼	1	"	"	40	00	1 25	50 00	M'ch 27,'52	Hezekiah Fagan	Hezekiah Fagan	Feb. 16,'53	2886
N. ½ of N. W. ¼	1	"	"	109	12	1 25	436 40	Oct. 1,'53	Herbert Geiger	Herbert Geiger	Feb. 1,'58	3837
S. ½ of N. W. ¼	1	"	"	80	00	1 25						3837
S. W. ¼ of	1	"	"	160	00	1 25		"	" "	" "		
E. ½ of S. E. ¼	1	"	"	80	00	1 25	100 00	M'ch 27,'52	Amos B. Fuller	Amos B. Fuller	Feb. 16,'53	2885
W. ½ of S. E. ¼	1	"	"	80	00	1 25	100 00	" " "	John W. Wilkin	John W. Wilkin	Feb. 16,'53	2885
N. E. ¼ of N. E. ¼	3	"	"	54	58	1 25	68 22½	Oct. 21,'52	Joseph Moth	Joseph Moth	July 1,'58	3127
N. W. ¼ of N. E. ¼	3	"	"	54	38	1 25	67 97½	Nov. 13,'52	Eli Frazier	Eli Frazier	July 1,'58	3199
N. W. ¼ of	3	"	"	188	16	1 25	235 20	M'ch 27,'52	John Crow	John Crow	July 16,'53	2888
S. ½ of N. E. ¼	3	"	"	80	00	1 25	100 00	Nov. 13,'52	Eli Frazier	Eli Frazier	July 1,'58	3199
S. ½ of S. E. ¼	3	"	"	80	00	1 25	100 00	M'ch 27,'52	Richard Ashworth	Richard Ashworth	Feb. 16,'53	2889
N. E. ¼ of S. W. ¼	3	"	"	40	00	1 25	50 00	Nov. 25,'52	John Crow	John Crow	July 1,'58	3206
S. E. ¼ of S. W. ¼	3	"	"	40	00	1 25	50 00	May 23,'53	" "	" "	June 1,'55	3459
E. ½ of N. E. ¼	11	"	"	80	00	1 25	100 00					2890
S. W. ¼ of N. E. ¼												
S. E. ¼ of N. W. ¼	11	"	"	80	00	1 25	100 00	M'ch 27,'52	Thomas McMullin	Thos. McMullin	Feb. 16,'53	2890
N. W. ¼ of N. W. ¼	11	"	"	40	00	1 25	50 00	" " "	Charles Murrow	Charles Murrow	Feb. 16,'53	2891
N. E. ¼ of N. E. ¼	13	"	"	40	00	1 25	50 00	Nov. 10,'53	Seth Richards	Seth Richards	July 1,'58	4089
S. E. ¼ of N. E. ¼	23	79	25									
W. ½ of N. E. ¼	23	"	"									
& N. W. ¼	23	"	"	280	00	1 25	350 00	Octo. 6,'52	Johnson Pernett'	Johnson Pernett	Feb. 16,'53	3106
N. ½ of S. E. ¼	23	"	"	180	00	1 25	100 00	Dec. 7,'53	Jenken W. Morris	Jenken W. Morris	May 31,'59	4343
S. E. ¼ of S. E. ¼	23	"	"	40	00	1 25	50 00	Nov. 29,'53	Joseph B. Stewart	Joseph B. St	July 1,'58	4283

Parts of section.	Section.	Township.	Range.	Acres.	100ths.	Price per acre.	Amount.	Date of sale.	Name of purchaser.	To whom patented.	Date of patent.	No. of patent.
S. W. ¼ of S. E. ¼	23	79	25	40	00	1 25	50 00	Dec. 7, '53	Robt. L. Tidrick	Robt. L. Tidrick	May 31, '59	4342
E. ½ of S. W. ¼	"	"	"	80	00	1 25	100 00	" " "	Wm. McConkey	Wm. McConkey	May 31, '59	4341
W. ½ of S. W. ¼	"	"	"	80	00	1 25	100 00	" 22, "	Miles White	Miles White	May 31, '59	4411
N. ½ of	27	"	"	230	00	1 25	600 00	Dec. 17, '53	Michael L. Devin	Michael L. Devin	May 31, '59	4400
S. E. ¼ of	27	"	"	160	00							4400
N. ½ of S. W. ¼, & S. E. ¼ of S. W. ¼	27	"	"	120	00	1 25	150 00	Dec. 17, '53	Michael L. Devin	Michael L. Devin	May 31, '59	4401
N. E. ¼ of	25	"	"	160	00	1 25	200 00	" 1, "	Joseph B. Stewart	Joseph B. Stewart	Ap'l 9, '59	4294
N. W. ¼ of	25	"	"	160	00	1 25	200 00	Nov. 15, "	" " "	" " "	July 1, '58	4145
S. W. ¼ of	25	"	"	160	00	1 25	200 00	M'ch 27, '52	Francis C. Grimmell	Francis C. Grimmell	Feb. 16, '53	2892
E. ½ of S. E. ¼	25	"	"	80	00	1 25	100 00	" " "	Henry C. Grimmell	Henry C. Grinnell	Feb. 16, '53	2893
W. ½ of S. E. ¼	25	"	"	80	00	1 25	100 00	" " "	Phineas M. Casady	Phineas M. Casady	Feb. 16, '53	2894
N. W. ¼ of N. E. ¼	35	"	"	40	00	1 25	50 00	Aug. 18, '52	A. S. & N. T. Vorse	A. S. & N. T. Vorse	Feb. 16, '53	3058
S. W. ¼ of N. E. ¼	35	"	"	40	00	1 25	50 00	M'ch 27, '52	Norman T. Vorse	Norman T. Vorse	Feb. 16, '53	2895
N. ½ of N. W. ¼ & S. E. ¼ of N. W. ¼	35	"	"	120	00	1 25	150 00	Oct. 25, '53	John Robinson	John Robinson	July 1, '58	3967
S. W. ¼	35	"	"	160	00	1 25	200 00	Dec. 2, '53	Seth Richards	Seth Richards	May 31, '59	4296
W. ½ of S. E. ¼	35	"	"	80	00	1 25	100 00	Nov. 14, '53	Addison L. & N. T. Vorse	Adison S. & N. T. Vorse	July 1, '58	4127
S. E. ¼ of N. E. ¼	1	80	25	40	00	1 25	50 00	" 25, "	Wm. Van Dorn	Wm. Van Dorn	July 1, '58	4237
S. W. ¼ of N. E. ¼	1	"	"	40	00	1 25	50 00	July 22, '52	George Beebe	George Beebe	Feb. 16, '53	3017
Lot No. 2	3	"	"	55	19	1 25	68 94	Aug. 13, '53	Thomas Murray	Thomas Murray	July 1, '58	3695
Lot No. 3	3	"	"	67	60	1 25	84 50	M'ch 27, '52	James Hunt	James Hunt	Feb. 16, '53	2897
Lot No. 4	3	"	"	35	35	1 25	44 18¾	" " "	Leonard M. Small	Leonard M. Small	Feb. 16, '53	2896
N. E. ¼ of N. E. ¼	5	"	"	52	81	1 25	66 01	Aug. 4, '53	Alfred Bowman	Alfred Bowman	July 1, '58	3669
S. E. ¼ of N. W. ¼	5	"	"	40	00	1 25	50 00	Nov. 2, "	Charles White	Charles White	July 1, '58	4019
E. ½ of S. W. ¼	5	"	"	80	00	1 25	100 00	Octo. 15, '53	Charles White	Charles White	July 1, '58	3913
S. E. ¼ of	5	"	"	160	00	1 25	200 00					
N. E. ¼ of	9	80	25	160	00	1 25	200 00	Octo. 24, '53	Wm. Frazier	Wm. Frazier	July 1, '58	3956
E. ½ of S. E. ¼	9	"	"	80	00	1 25	100 00	Aug. 13, '53	Nathan Andrews	Nathan Andrews	July 1, '58	3693
S. W. ¼ of	9	"	"	160	00	1 25	200 00	Oct. 15, '53	Charles White	Charles White	July 1, '58	3912
N. E. ¼ of N. W. ¼	9	"	"	40	00	1 25	50 00	Aug. 13, '53	Abraham Elliott	Abraham Elliott	July 1, '58	3692
N. W. ¼ of N. W. ¼, & S. ½ of N. W. ¼	9	"	"	120	00	1 25	150 00	Oct. 15, '53	Charles White	Charles White	July 1, '58	3912
Lot No. 1	11	"	"	43	01	1 25	53 76½	Nov. 8, '52	Nathan Andrews	Nathan Andrews	July 1, '58	3187
Lot No. 2	11	"	"	38	44	1 25	48 05	M'ch 27, '52	Nathan Andrews	Nathan Andrews	Feb. 16, '53	2898
Lot No. 6	11	"	"	24	34	1 25	30 42½	Nov. 11, '53	Daniel Berry	Daniel Berry	July 1, '58	4102
Lots No. 7 & 8	13	"	"	100	25	1 25	125 31¼	M'ch 27, '52	Seburn Hinton	Seburn Hinton	Feb. 16, '53	2901
Lot No. 3	13	"	"	22	00	1 25	27 52	Oct. 24, '53	William Frazier	Wm. Frazier	July 1, '58	3957

REC. 397—10

345 Parts of section.	Section.	Township.	Range.	Acres.	100ths.	Price per acre.	Amount.	Date of sale.	Name of purchaser.	To whom patented.	Date of patent.	No. of patent.
Lot No. 4	13	80	25	57	93	1 25	72 41¼	Dec. 5, '53	Abraham Elliott	Abraham Elliott	May 31, '59	4314
N. ½ of N. E. ¼	15	"	"	80	00	1 25	100 00	M'ch 27, '52	Nathan Andrews	Nathan Andrews	Feb. 16, '53	2899
S. ½ of N. E. ¼, N. ½ S. E. ¼	15	"	"	160	00	1 25	200 00	Aug. 13, '53	Abraham Elliott	Abraham Elliott	Juiy 1, '58	3691
N. E. ¼ of N. W. ¼	15	"	"	40	00	1 25	50 00	Aug. 13, '53	Nathan Andrews	Nathan Andrews	July 1, '58	3694
W. ½ of N. W. ¼.												
S. E. ¼ of N. W. ¼	15	"	"	120	00	1 25	150 00	Octo. 10, '53	Nathan Andrews	Nathan Andrews	July 1, '58	3876
S. W. ¼ of S. E. ¼, S. E. ¼ of S. W. ¼	15	"	"	80	00	1 25	100 00	Octo. 24, '53	Abraham Elliott	Abraham Elliott	July 1, '58	3955
S. W. ¼ of N. E. ¼	17	"	"	40	00	1 25	50 00	" " "	John Finley	John Finley	July 1, '58	3841
S. E. ¼ of N. W. ¼	17	"	"	40	00	1 25	50 00	July 19, '53	Nathaniel J. Powell	Nathan'l J. Powell	July 1, '58	3630
S. W. ¼ of N. W. ¼	17	"	"	40	00	1 25	50 00	" " "	John Finley	John Finley	July 1, '58	3628
N. W. ¼ of S. W. ¼	17	"	"	40	00	1 25	50 00	Aug. 21, '53	Nathan'l J. Powell	Nathan'l J. Powell	July 1, '58	3729
E. ½ of S. W. ¼, W. ½ of S. E. ¼	17	"	"	160	00	1 25	200 00	July 19, '53	Nathan'l J. Powell	Nathaniel J. Powell	July 1, '58	3631
N. E. ¼ of N. E. ¼	21	"	"	40	00	1 25	50 00	Dec. 2, '53	Robt. Broadie	Robt. Broadie	May 31, '59	4298
S. E. ¼ of N. E. ¼	21	"	"	40	00	1 25	50 00	Nov. 8, '53	Andrew S. Stensus	Andrew S. Stensus	July 1, '58	4056
N. E. ¼ of N. W. ¼	21	"	"	40	00	1 25	50 00	M'ch 27, '52	Nathan'l J. Powell	Nathan'l J. Powell	Feb. 16, '53	2902
N. W. ¼ of N. W. ¼	21	"	"	40	00	1 25	50 00	July 19, '53	Nathan'l J. Powell	Nathan'l J. Powell	July 1, '58	3629
S. E. ¼ of N. W. ¼	21	"	"	40	00	1 25	50 00	July 19, '53	" " "	" " "	July 1, '58	3629
N. E. ¼ of N. E. ¼	23	"	"	40	00	1 25	50 00	Dec. 13, '52	Wm. Frazier	Wm. Frazier	July 1, '58	3225
N. W. ¼ of N. E. ¼	23	"	"	40	00	1 25	50 00	Nov. 3, '52	Wm. Frazier, jr	Wm. Frazier, jr	July 1, '58	3173
S. W. ¼ of N. E. ¼	23	"	"	40	00	1 25	50 00	Dec. 13, '52	Wm. Frazier	Wm. Frazier	July 1, '58	3225
S. E. ¼ of N. E. ¼	23	"	"	40	00	1 25	50 00	Aug. 13, '53	Tabor W. McKee	Tabor W. McKee	July 1, '58	3696
E. ½ of N. W. ¼	23	"	"	80	00	1 25	} 150 00	Nov. 3, '53	Joseph B. Stewart	Joseph B. Stewart	Sept. 1, '58	4024
S. W. ¼ of S. W. ¼	23	"	"	40	00	1 25	}					
E. ½ of S. W. ¼	23	"	"	80	00	1 25	100 00	Oct. 3, '53	Byron Rice	Byron Rice	July 1, '58	3848
W. ½ of S. E. ¼	23	"	"	80	00	1 25	100 00	Aug. 13, '53	John A. Elliott	John A. Elliott	July 1, '58	3697
N. E. ¼ of S. E. ¼	23	"	"	40	00	1 25	50 00	May 16, '53	John McClain	John McClain	June 1, '54	3448
S. E. ¼ of S. E. ¼	23	"	"	40	00	1 25	50 00	Aug. 13, '53	John McClain	John McClain	Feb. 16, '53	3053
N. E. ¼ of N. E. ¼	25	"	"	40	00	1 25	50 00	July 28, '52	Dr. F. Hunt	Dr. F. Hunt	Feb. 16, '53	3034
W. ½ of N. E. ¼	25	"	"	80	00	1 25	100 00	M'ch 27, '52	Joseph Hiner	Joseph Hiner	Feb. 16, '53	2903
N. E. ¼ of N. W. ¼	25	"	"	40	00	1 25	50 00	July 21, '52	Alexander Fouts	Alexander Fouts	Feb. 16, '53	3013
N. W. ¼ of N. W. ¼	25	"	"	40	00	1 25	50 00	June 7, '53	Alexander Fouts	Alexander Fouts	July 1, '58	3484
S. W. ¼ of N. W. ¼	25	"	"	40	00	1 25	50 00	May 9, '53	Alexander Fouts	Alexander Fouts	June 1, '54	3437
S. E. ¼ of N. W. ¼	25	"	"	40	00	1 25	50 00	May 27, '52	Nathan Andrews	Nathan Andrews	Feb. 16, '53	2700
N. E. ¼ of S. W. ¼	25	"	"	40	00	1 25	50 00	July 31, '52	Joseph Hiner	Joseph Hiner	Feb. 16, '53	3040
N. W. ¼ of S. W. ¼	25	"	"	40	00	1 25	50 00	Feb. 24, '53	Alexander Fouts	Alexander Fouts	June 1, '54	3338

Parts of section.	Section.	Township.	Range.	Acres.	100ths.	Price per acre.	Amount.	Date of sale.	Name of purchaser.	To whom patented.	Date of patent.	No. of patent.
S. W. ¼ of S. W. ¼	25	80	25	40	00	1 25	50 00	Nov. 3, '52	Alexander Fouts	Alexander Fouts	July 1, '58	3174
S. E. ¼ of S. W. ¼	25	"	"	40	00	1 25	50 00	May 14, '53	Samuel Hunt	Samuel Hunt	June 1, '54	3443
N. W. ¼ of S. E. ¼	25	"	"	40	00	1 25	50 00	Nov. 3, '53	Joseph B. Stewart	Joseph B. Stewart	Sep. 1, '58	4023
S. E. ¼ of S. E. ¼	25	"	"	40	00	1 25	50 00	June 9, '53	James Hunt	James Hunt	July 1, '58	3491
S. E. ¼ of N. E. ¼, & N. E. ¼ of S. E. ¼	25	"	"	80	00	1 25	100 00	M'ch 27, '52	Dr. F. Hunt	Dr. F. Hunt	Feb. 16, '53	2904
N. E. ¼ of N. E. ¼	27	"	"	40	00	1 25	50 00	Octo. 4, '53	Isaac Hastings	Isaac Hastings	July 1, '58	3852
N. W. ¼ of N. E. ¼	27	"	"	40	00	1 25	50 00	Nov. 25, '53	Nathaniel J. Powell	Nathaniel J. Powell	July 1, '58	3245
N. ½ of S. W. ¼	27	"	"	80	00	1 25	100 00	Nov. 11, '53	Joseph B. Stewart	Joseph B. Stewart	Sept. 1, '58	4092
S. E. ¼ of S. E. ¼	27	"	"	40	00	1 25	50 00	Nov. 12, '52	Joseph B. Stewart	Joseph B. Stewart	July 1, '58	4114
S. E. ¼ of N. E. ¼, & N. E. ¼ of S. E. ¼	27	"	"	80	00	1 25	100 00	Octo. 25, '52	Andrew Clark	Andrew Clark	July 1, '58	3136
S. W. ¼ of N. E. ¼	29	"	"	}								
& S. E. ¼ of N. W. ¼	29	"	"	} 80	00	1 25	100 00	Nov. 11, '53	Joseph B. Stewart	Joseph B. Stewart	Sept. 1, '58	4091
N. ½ of S. W. ¼	29	"	"	80	00	}					}	3730
S. W. ¼ of S. E. ¼	29	"	"	40	00	} 1 25	150 00	Aug. 27, '53	Nathan'l J. Powell	Nathaniel J. Powell	July 1, '58 }	3730
N. W. ¼ of	33	"	"	160	00	1 25	200 00	June 13, '53	Wm. T. Ayers	Wm. T. Ayers	July 1, '58	3501
E. ½ of N. W. ¼	33	"	"	80	00	1 25	100 00	Nov. 11, '53	Joseph B. Stewart	Joseph B. Stewart	Sep. 1, '58	4093
N. ½ of S. E. ¼	33	"	"	80	00	1 25	100 00	Nov. 11, '53	" " "	" " "	Sep. 1, '58	4093
S. ½ of S. E. ¼	33	"	"	80	00	1 25	100 00	Octo. 1, '53	John Finley	John Finley	July 1, '58	3840
N. E. ¼ of N. E. ¼	35	"	"	40	00	1 25	50 00	M'ch 27, '50	Samuel Hunt	Samuel Hunt	Feb. 16, '53	2905
S. E. ¼ of N. E. ¼	35	"	"	40	00	1 25	50 00	Sept. 6, '50	Dr. F. Hunt	Dr. F. Hunt	Feb. 16, '53	3076
E. ½ of N. W. ¼, & S. W. ¼ of N. W. ¼	35	"	"	120	00	1 25	150 00	Nov. 12, '53	Joseph B. Stewart	Joseph B. Stewart	July 1, '58	4113
N. W. ¼ of N. W. ¼	35	"	"	40	00	1 25	50 00	Oct. 13, '53	Nathaniel J. Powell	Nathaniel J. Powell	July 1, '58	3902
N. E. ¼ of S. E. ¼	35	"	"	40	00	1 25	50 00	Feb. 7, '53	Dr. F. Hunt	Dr. F. Hunt	July 1, '58	3308
N. W. ¼ of	3	81	25	147	06	1 25	183 82	Dec. 22, '53	Thomas Devin	Thomas Devin	May 13, '59	4419
S. W. ¼ of	3	"	"	160	00	1 25	200 00	Dec. 22, '53	Thomas Devin	Thomas Devin	May 31, '59	4422
N. E. ¼ of	5	"	"	149	31	1 25	186 63¾	Nov. 19, '53	Sarah T. Walker	Sarah T. Walker	July 1, '58	4203
N. W. ¼ of	5	"	"	148	53	1 25	186 66¼	Nov. 19, '53	Augustus D. Walker	Augustus D. Walker	July 1, '58	4201
S. W. ¼ of 5, S. E. ¼ of	5	"	"	160	00	1 25	200 00	Nov. 19, '53	John S. Walker	John S. Walker	July 1, '58	4204
N. ½ of N. W. ¼	7	"	"	88	54	1 25	110 67½	" 10, "	Henry Carr	Henry Carr	Feb. 1, '58	4088
S. E. ¼ of	7	"	"	160	00	1 25	200 00	" 29, "	Joseph C. Knapp	Joseph C. Knapp	July 1, '58	4281
W. ½ of N. E. ¼	9	"	"	80	00	1 25	100 00	M'ch 29, '52	Andrew S. Pierce	Andrew S. Pierce	Feb. 16, '53	2907
N. W. ¼ of	9	"	"	160	00	1 25	200 00	" " "	Richard Pierce	Richard Pierce	Feb. 16, '53	2906
N. W. ¼ of S. W. ¼	9	"	"	40	00	1 25	50 00	Nov. 21, '52	" " "	" " "	July 1, '58	4213
S. E. ¼ of S. W. ¼	9	"	"	40	00	1 25	50 00	" " "	Seth Richards	Seth Richards	July 1, '58	4214
S. W. ¼ of S. E. ¼	9	"	"	40	00	1 25	00	June 16, '52	Alexander Pierce	Alexander Pierce	July 1, '58	3516

347 Parts of section.	Sections.	Township.	Range.	Acres.	100ths.	Price per acre.	Amount.	Date of sale.	Name of purchaser.	To whom patented.	Date of patent.	No. of patent.
N. W. ¼ of	11	81	25	160	00	1 25	200 00	Dec. 22, '52	Thomas Devin	Thomas Devin	May 31, '59	4423
S. W. ¼	11	"	"	160	00	1 25	200 00	" " "	Robert Meek	Robert Meek	May 31, '59	4418
S. E. ¼ of	11	"	"	160	00	1 25	200 00	Dec. 22, '53	Thas. Devin	Thos. Devin	May 31, '59	4420
N. W. ¼ of	13	8 "	"	160	00	1 25	200 00	" " "	" "	" "	May 31, '59	4424
N. ½ of S. W. ¼	13	"	"	80	00	1 25	100 00	" " "	" "	" "	May 31, '59	4424
S. ½ of S. W. ¼	13	"	"	80	00	1 25	100 00	" " "	Robert Meek	Robert Meeke	May 31, '59	4417
S. E. ¼ of	13	"	"	160	00	1 25	200 00	" " "	Thomas Devin	Thomas Devin	May 31, '59	4421
N. E. ¼ of	15	"	"	160	00	1 25	200 00	July 16, '53	James F. Adams	James F. Adams	July 1, '58	3622
S. W. ¼ of N. W. ¼	15	"	"	40	00	1 25	50 00	May 16, '53	John H. Grigsby	John H. Grigsby	June 1, '54	3447
N. E. ¼ of S. W. ¼	15	"	"	40	00	1 25	50 00	M'ch 29, '52	Henry C. Dennison	Henry C. Dennison	Feb. 16, '53	2908
S. ½ of S. W. ¼	15	"	"	80	00	1 25	100 00	May 16, '53	John H. Grigsby	John H. Grigsby	June 1, '54	3447
W. ½ of S. E. ¼, S. E. ¼ of S. E. ¼	15	"	"	120	00	1 25	150 00	June 15, '53	Barnebas Hepersmith	Barnabas Hepersmith	July 1, '58	3510
N. E. ¼ of S. E. ¼	15	"	"	40	00	1 25	50 00	Nov. 14, '53	" "	" "	July 1, '58	4125
N. E. ¼ of	17	"	"	160	00	1 25	200 00	July 19, '52	John Wear	John Wear	Feb. 16, '53	2971
N. E. ¼ of N. W. ¼	17	"	"	40	00	1 25	50 00	July 19, '52	Henderson Harvey	Henderson Harvey	Feb. 16, '53	2997
N. W. ¼ of S. W. ¼	17	"	"	40	00	1 25	50 00	Dec. 9, '53	Edward Filmer	Edward Filmer	May 31, '59	4354
S. E. ¼ of S. W. ¼	17	"	"	40	00	1 25	50 00	Nov. 11, '53	Robert Logan	Robert Logan	July 1, '58	4103
S. W. ¼ of S. E. ¼	17	81	25	40	00	1 25	50 00	Ap'l 23, '53	Benjamin Hunt	Benjamin Hunt	June 1, '54	3421
E. ½ of S. E. ¼	17	"	"	80	00	1 25	100 00	July 22, '52	Josiah Hopkins	Josiah Hopkins	Feb. 16, '53	3019
N. E. ¼ of	19	"	"	160	00	1 25	200 00	M'ch 29, '52	Charles Roe	Charles Roe	Feb. 16, '53	2909
N. E. ¼ of N. W. ¼	19	"	"	40	00	1 25	50 00	M'ch 29, '52	Oliver Roe	Oliver Roe	Feb. 16, '53	2911
S. E. ¼ of N. W. ¼	19	"	"	40	00	1 25	50 00	M'ch 19, '52	Charles Roe	Charles Roe	Feb. 16, '53	2910
N. W. ¼ of N. W. ¼	19	"	"	49	17	1 25	61 46¼	July 22, '52	John H. Moots	John H. Moots	Feb. 16, '53	3014
E. ½ of S. W. ¼	19	"	"	80	00	1 25	100 00	M'ch 29, '52	Charles Roe	Charles Roe	Feb. 16, '53	2909
N. ½ of S. E. ¼	19	"	"	80	00	1 25	100 00	M'ch 19, '52	Charles Roe	Charles Roe	Feb. 16, '53	2910
S. E. ¼ of S. E. ¼	19	"	"	40	00	1 25	50 00	July 22, '52	Felix G. Farris	Felix G. Farris	Feb. 16, '53	3016
S. W. ¼ of S. E. ¼	19	"	"	40	00	1 25	50 00	Ap'l 23, '53	John Hall	John Hall	June 1, '54	3422
N. E. ¼ of N. E. ¼	21	"	"	49	17	1 25	50 00	July 16, '53	John Eslick	John Eslick	July 1, '58	3623
S. ½ of N. E. ¼	21	"	"	80	00	1 25	100 00	Oct. 1, '53	Elsberry Small	Elsberry Small	July 1, '58	3827
E. ½ of S. E. ¼	21	"	"	80	00	1 25	100 00	M'ch 29, '52	John Eslick	John Eslick	Feb. 16, '53	2913
W. ½ of S. E. ¼	21	"	"	80	00	1 25	100 00	" "	George H. B. Hopkins	Geo. H. B. Hopkins	Feb. 16, '53	2912
S. ½ of N. E. ¼	23	"	"	80	00	1 25	100 00	Oct. 1, '53	Leonard M. Small	Leonard M. Small	July 1, '58	3828
N. E. ¼ of N. W. ¼	23	"	"	40	00	1 25	50 00	Nov. 22, '53	Phineas M. Casady	Phineas M. Casady	July 1, '58	4223
S. E. ¼ of N. W. ¼	23	"	"	40	00	1 25	50 00	July 20, '53	Samuel Fowler	Sam'l Fowler	July 1, '58	3638
W. ½ of N. W. ¼	23	"	"	80	00	1 25	100 00	July 6, '53	John Kellison	John Kellison	July 1, '58	3601
N. W. ¼ of S. W. ¼	23	"	"	40	00	1 25	50 00	M'ch 29, '52	Leonard M. Small	Leonard M. Small	Feb. 16, '53	2914
S. W. ¼ of S. W. ¼	23	"	"	40	00	1 25	50 00	Aug. 26, '52	Leonard M. Small	Leonard M. Small	Feb. 16, '53	3073

Parts of section.	Section.	Township.	Range.	Acres.	100ths.	Price per acre.	Amount.	Date of sale.	Name of purchaser.	To whom patented.	Date of patent.	No. of patent.
E. ½ of S. W. ¼	23	81	25	80	00	1 25	100 00	July 20, '53	Samuel Fowler	Samuel Fowler	July 1, '58	3637
S. E. ¼ of	23	"	"	160	00	1 25	200 00	" "	" "	" "	July 1, '58	2637
S. W. ¼ of N. E. ¼	25	"	"	40	00	1 25	50 00	Oct. 25, '53	John Crabtree	John Crabtree	July 1, '58	3960
N. W. ¼ of	25	"	"	160	00	1 25	200 00	" "	James Long	James Long	July 1, '58	3966
W. ½ of S. W. ¼	25	"	"	80	00	1 25	100 00	M'ch 29, '52	John M. Nicenander	John M. Nicenander	Feb. 16, '53	2915
E. ½ of S. W. ¼	25	"	"	80	00	1 25	100 00	May 23, '53	John M. Nicenander	John M. Nicenander	June 1, '55	3456
S. W. ¼ of S. E. ¼	25	"	"	40	00	1 25	50 00	June 14, '53	James Crabtree	James Crabtree	July 1, '58	3505
N. W. ¼ of S. E. ¼	25	"	"	40	00	1 25	50 00	Oct. 20, '53	John Crabtree	John Crabtree	July 1, '58	3934
E. ½ of N. E. ¼	27	"	"	80	00	1 25	100 00	M'ch 29, '52	Leonard M. Small	Leonard M. Small	Feb. 16, '53	2916
N. W. ¼ of N. W. ¼	27	"	"	40	00	1 25	50 00	July 16, '53	John Provolt	John Provolt	July 1, '58	3621
S. W. ¼ of N. W ¼	27	"	"	40	00	1 25	50 00	July 19, '52	John Wear	John Wear	Feb. 16, '53	2972
S. W. ¼ of	27	"	"	160	00	1 25	200 00	M'ch 17, '53	Edwin R. Clapp	Edwin R. Clapp	June 1, '54	3367
S. E. ¼ of	27	"	"	160	00	1 25	200 00	M'ch 15, '53	Benjamin F. Allen	Benj. F. Allen	June 1, '54	3362
Lot No. 8 & N. E. ¼ of N. E ¼	29	"	"	84	05	1 25	102 56¼	Aug. 4, '52	Henderson Harvey	Hengerson Harvey	Feb. 16, '53	3043
Lot No. 7, and N. W. ¼ of N. E. ¼	29	"	"	90	14	1 25	112 67½	Nov. 19, '53	Thos. A. Walker	Thos. A. Walker	July 1, '58	4205
Lots 5 & 6	29	"	"	96	18	1 25	120 22½	July 19, '52	Russel Bowman	Russel Bowman	Feb. 16, '53	2965
N. E. ¼ & E. ½ of N. W. ¼	31	"	"	240	00	1 25	300 00	Oct. 1, '53	Clement Murphy	Clement Murphy	July 1, '58	3822
W. ½ of N. W. ¼	31	"	"	97	80	1 25	123 33	" "	Wm. R. Snyder	Wm. R. Snyder	July 1, '58	3824
N. ½ of S. E. ¼	31	"	"	80	00	1 25	100 00	" "	Clement Murphy	Clement Murphy	July 1, '58	3823
N. E. ¼ of N. E. ¼ & S. E. ¼ of N. E. ¼	33	"	"	85	79	1 25	210 80	May 6, '53	Leonard M. Small	Leonard M. Small	June 1, '54	3430 3430
Lot No. 12 & N. E. ¼ of S. E. ¼	33	"	"	82	85							
Lots 3 & 4	33	"	"	79	28	1 25	99 10	Nov. 19, '53	Judith S. Walker	Judith S. Walker	July 1, '58	4206
Lot No. 2	33	"	"	65	80	1 25	82 25	M'ch 29, '52	Leonard M. Small	Leonard M. Small	Feb. 16, '53	2917
S. ½ of S. W. ¼	33	"	"	79	30	1 25	99 15	Aug. 4, '53	Albred Bowman	Alfred Bowman	July 1, '58	3670
Lot. No. 6	33	"	"	27	53	1 25	34 41	Nov. 19, '53	Judith S. Walker	Judith S. Walker	July 1, '58	4206
N. ½ of N. E. ¼	11	80	26	80	00	1 25	150 00	Oct. 1, '53	Moses Pilcher	Moses Pilcher	July 1, '58	3839
N. W. ¼ of S. E. ¼	11	"	"	40	00	1 25						
W. ½ of N. W. ¼	13	"	"	80	00	1 25	100 00	July 19, '53	Nathanl. J. Powell	Nathanl. J. Powell	July 1, '58	3632
N. ½ of S. E. ¼ & S. W. ¼ of S. E. ¼	1	81	26	120	00	1 25	150 00	Octo. 5, '53	Williboy Keith	Williboy Keith	July 1, '58	3858
Lots 5 & 6	3	"	"	113	01	1 25	141 37	July 5, '53	Chas. W. Gasten	Chas. W. Gasten	July 1, '58	3599
Lots No. 1 & 2 & S. ½ of N. W. ¼	3	"	"	169	85	1 25	212 31½	M'ch 30, '52	John Richhart	John Richhart	Feb. 16, '53	2918

349 Parts of section.	Section.	Township.	Range.	Acres.	100ths.	Price per acre.	Amount.	Date of sale.	Name of purchaser.	To whom patented.	Date of patent.	No. of patent.
N. E. ¼ of S. W. ¼	3	81	26	40	00	1 25	50 00	Nov. 27, '52	James Morse	James Morse	July 1, '58	3209
Lot No. 3 & S. W. ¼ of S. E. ¼	3	"	"	98	20	1 25	122 78	M'ch 14, '53	Joseph Newland	Joseph Newland	June 1, '54	3360
Lot No. 4	3	"	"	39	50	1 25	49 37	Aug. 13, '53	Danl. J. Skinner	Danl. J. Skinner	July 1, '58	3686
N. ½ of N. E. ¼	5	"	"	58	25	1 25	72 81¼	July 19, '52	Jesse S. Dicks	Jesse S. Dicks	Feb. 16, '53	2961
S. E. ¼ of N. E. ¼	5	"	"	40	00	1 25	50 00	July 28, '52	Jesse S. Dicks	Jesse S. Dicks	Feb. 16, '53	3035
S. W. ¼ of N. E. ¼	5	"	"	40	00	1 25	50 00	M'ch 30, '52	Crawford Cole	Crawford Cole	Feb. 16, '53	2919
N. ½ of N. W. ¼	5	"	"	57	01	1 25	71 26	Aug. 13, '53	Daniel S. Skinner	Daniel S. Skinner	July 1, '58	3690
S. E. ¼ of N. W. ¼	5	"	"	40	00	1 25	50 00	" " "	" " "	" " "	July 1, '58	3689
N. E. ¼ of S. W. ¼	5	"	"	40	00	1 25	50 00	July 30, '53	Saml. Wilson Waldo	Saml. Wilson Waldo	July 1, '58	3663
N. W. ¼ of S. W. ¼	5	"	"	40	00	1 25	50 00	" " "	Almeran Waldo	Almeran Waldo	July 1, '58	3660
S. ½ of S. W. ¼	5	"	"	80	00	1 25	100 00	Aug. 13, '53	Danl. J. Skinner	Danl. J. Skinner	July 1, '58	3688
N. E. ¼ of S. E. ¼	5	"	"	40	00	1 25	50 00	Nov. 27, '52	James Morse	James Morse	July 1, '58	3210
N. W. ¼ S. E. ¼	5	"	"	40	00	1 25	50 00	Aug. 13, '53	Danl. J. Skinner	Danl. J. Skinner	July 1, '58	3689
S. ½ of S. E. ¼	5	"	"	80	00	1 25	100 00	July 22, '53	Joseph Newland	Joseph Newland	July 1, '58	3289
E. ½ of N. E. ¼ }	9	"	"									
S. W. ¼ of N. E. ¼ }	9	"	"	120	00	1 25	150 00	July 19, '52	James W. Nice	James W. Nice	Feb. 16, '53	2959
N. W. ¼ of N. E. ¼	9	"	"	40	00	1 25	50 00	Oct. 26, '53	Jeduthan Waldo	Jeduthan Waldo	July 1, '58	3975
N. E. ¼ of N. W. ¼	9	"	"	40	00	1 25	50 00	" " "	John Newland	John Newland	July 1, '58	2974
N. W. ¼ of S. W. ¼	9	"	"	40	00	1 25	50 00	M'ch 1, '53	John Reynolds	John Reynolds	July 1, '54	3343
S. W. ¼ of N. W. ¼	9	"	"	40	00	1 25	50 00	July 19, '52	Jeduthan Waldo	Jeduthan Waldo	Feb, 16, '53	2960
S. E. ¼ of N. W. ¼	9	"	"	40	00	1 25	50 00	July 19, '52	James W. Nice	James W. Nice	Feb. 16, '53	2959
N. E. ¼ of S. W. ¼	9	"	"	40	00	1 25	50 00	July 19, '52	Jeduthan Waldo	Jeduthan Waldo	Feb. 16, '53	2960
N. W. ¼ of S. W. ¼	9	"	"	40	00	1 25	50 00	Oct. 14, '53	Wm. Wallace Waldo	Wm. Wallace Waldo	July 1, '58	3618
S. E. ¼ of S. W. ¼	9	"	"	40	00	1 25	50 00	July 13, '53	Josephus A. Waldo	Josephus A. Waldo	July 1, '58	3618
N. E. ¼ of S. E. ¼	9	"	"	40	00	1 25	50 00	" 22, '53	James W. Nice	James W. Nice	July 1, '58	3288
S. W. ¼ S. E. ¼	9	"	"	40	00	1 25	50 00	July 19, '52	James W. Nice	James W. Nice	Feb. 16, '53	3959
S. W. ¼ of S. E. ¼	9	"	"	40	00	1 25	50 00	Dec. 27, '52	Jeduthan Waldo	Jeduthan Waldo	July 1, '58	3241
Lot No. 6	11	"	"	45	62	1 25	57 02½	Nov. 19, '53	Judith S. Walker	Judith S. Walker	July 1, '58	4207
Lot No. 7	11	"	"	38	50	1 25	48 12½	May 11, '53	John W. Morris	John W. Morris	June 1, '55	3440
Lots No. 8 & 9	11	"	"	130	22	1 25	162 77½	July 22, '52	Frederick Shaffer	Frederick Shaffer	Feb. 16, '53	3015
Lot No. 5	11	"	"	47	70	1 25	59 62½	" 26, '52	John Spear	John Spear	Feb. 16, '53	3032
S. W. ¼ of N. W. ¼	11	"	"	40	00	1 25	50 00	Ap'l 5, '53	John Spear	John Spear	June 1, '54	3398
N. E. ¼ of N. E. ¼	13	"	"	40	00	1 25	50 00	Nov. 12, '53	Joseph B. Stewart	Joseph B. Stewart	July 1, '58	4112
S. W. ¼ of N. E. ¼	13	"	"	40	00	1 25	50 00	" " "	" " "	" " "	July 1, '58	"
S. E. ¼ of N. E. ¼	13	"	"	40	00	1 25	50 00	Oct. 21, '52	Lerew Lewis	Lerew Lewis	July 1, '58	3125
E. ½ of N. W. ¼												
N. W. ¼ of N. W. ¼	13	"	"	120	00	1 25	150 00	Nov. 12, '53	Joseph B. Stewart	Joseph B. Stewart	July 1, '58	4111

Parts of section.	Section.	Township.	Range.	Acres.	100ths.	Price per acre.	Amount.	Date of sale.	Name of purchaser.	To whom patented.	Date of patent.	No. of patent.
S. W. ¼ of N. W. ¼	13	81	26	40	00	1 25	50 00	M'ch 2, '53	Thomas Hazelton	Thomas Hazelton	June 1, '54	3345
E. ½ of S. E. ¼	13	"	"	80	00	1 25	100 00	" 30, '52	John Wear	John Wear	Feb. 16, '53	2920
N. E. ¼ of N. E. ¼	15	"	"	80	00	1 25	100 00	Dec. 23, '53	Phineas M. Cassady	Phineas M. Casady	Feb. 25, '60	4428
N. W. ¼ of	15	"	"	160	00	1 25	200 00	Nov. 18, '53	Robert Meek	Robert Meek	July 1, '58	4188
N. W ¼ of S. W. ¼	15	"	"	40	00	1 25	50 00	Aug. 26, '53	Elisha Lemon	Elisha Lemon	July 1, '58	3725
S. ½ of S. W. ¼	15	"	"	80	00	1 25	100 00	Nov. 18, '53	Robert Meek	Robert Meek	July 1, '58	4188
N. E. ¼ of S. W. ¼												3657
N. W. ¼ of S. E. ¼	15	"	"	80	00	1 25	100 00	July 30, '53	Elisha Lemon	Elisha Lemon	July 1, '58	3657
E. ½ of S. E. ¼												4189
S. W. ¼ of S. E. ¼	15	"	"	120	00	1 25	150 00	Nov. 18, '53	Robert Meek	Robert Meek	July 1, '58	4189
N. E. ¼ of	21	"	"	160	00	1 25	200 00	Nov. 25, '53	Marion Sheiler	Marion Sheiler	July 1, '58	4236
N. W. ¼ of	21	"	"	160	00	1 25	200 00	Dec. 26, '53	Thompson Bird	Thompson Bird	May 31, '59	4412
N. E. ¼ of N. E. ¼	23	"	"	40	00	1 25	50 00	July 8, '53	John Platt	John Platt	July 1, '58	3274
N. W. ¼ of N. E. ¼	23	"	"	40	00	1 25	50 00	Nov. 9, '53	Seth Richards	Seth Richards	July 1, '58	4079
S. E. ¼ of N. E. ¼	23	"	"	40	00	1 25	50 00	" " "	Seth Richards	Seth Richards	July 1, '58	4077
S. W. ¼ of N. E. ¼ & E. ¼ of N. W	23	"	"	80	00	1 25	100 00	M'ch 30, '52	Bennett Huchinson	Bennett Huchinson	Feb. 16, '53	2922
N. E. ¼ of N. W. ¼	23	"	"	40	00	1 25	50 00	Nov. 7, '53	Alexander C. Newell	Alex'r C. Newell	July 1, '58	4052
N. W. ¼ of N. W. ¼	23	"	"	40	00	1 25	50 00	" 21, "	Joseph B. Stewart	Joseph B. Stewart	July 1, '58	4212
S. W. ¼ of N. W. ¼	23	"	"	40	00	1 25	50 00	M'ch 30, '52	Moses Pilcher	Moses Pilcher	Feb. 16, '53	2923
N. ½ of S. E. ¼ & S. E. ¼ of S. E. ¼	23	"	"	120	00	1 25	150 00	M'ch 20, '52	Bennett Huchinson	Bennett Huchinson	Feb. 16, '53	2921
S. W. ¼ of S. E. ¼	23	"	"	40	00	1 25	50 00	Nov. 4, '53	William Jacobs	Wm. Jacobs	Feb. 1, '58	4031
Lots No. 1 & 2 & S. E. ¼ of N. W. ¼	25	"	"	145	47	1 25	191 75	Oct. 25, '53	Peter Perry	Peter Perry	July 1, '58	3969
Not No. 3	25	"	"	51	70	1 25	64 62½	Ap'l 11, '53	Edward Thuinly	Edward Thuinly	July 1, '54	3403
Lot No. 4	25	"	"	28	25	1 25	35 31½	M'ch 30, '52	John Wear	John Wear	Feb. 16, '53	2924
S. E. ¼ & E. ¼ of N. W. ¼	25	"	"	240	00	1 25	320 00	Oct. 1, '53	Wm. Snider	Wm. Snider	July 1, '58	3825
N. W. ¼ of S. W. ¼	25	"	"	40	00	1 25	50 00	Dec. 31, '52	John Bailey	John Bailey	July 1, '58	3250
S. W. ¼ of S. W. ¼	25	"	"	40	00	1 25	50 00	May 23, '53	" "	" "	June 1, '58	3458
N. E. ¼ of N. E. ¼	27	"	"	40	00	1 25	50 00	Nov. 9, '53	Seth Richards	Seth Richards	July 1, '58	4078
S. E. ¼ of N. E. ¼	27	"	"	40	00	1 25	50 00	July 8, '53	John Platt	John Platt	July 1, '58	3275
W. ½ of N. E. ¼, E. ¼ of N. W. ¼	27	"	"	160	00	1 25	200 00	Nov. 3, '52	Isaac Robbins	Isaac Robbins	July 1, '58	3172
E. ½ of N. E. ¼	27	"	"	80	00	1 25	100 00	Nov. 7, '53	Michael R. Miller	Michael R. Miller	July 1, '58	4053
N. W. ¼ of N. E. ¼	35	"	"	40	00	1 25	50 00	Oct. 22, '53	William Jacobs	Wm. Jacobs	July 1, '58	3954
N. E. ¼ of N. E. ¼	1	82	26	38	74	1 25	48 42½	Nov. 14, '53	John D. Sanford	John D. Sanford	July 1, '58	4130

351 Parts of section.	Section.	Township.	Range.	Acres.	100ths.	Price per acre.	Amount.	Date of sale.	Name of purchaser.	To whom patented.	Date of patent.	No. of patent.
N. W. ¼ of N. E. ¼	1	82	26	39	22	1 25	49 02½	Nov. 22, '53	Sam'l Luther	Sam'l Luther	July 1, '58	4224
S. ½ of S. W. ¼	1	"	"	80	00	1 25	100 00	Nov. 14, '53	John D. Sanford	John D. Sanford	July 1, '58	4128
S. E. ¼ of S. E. ¼	1	"	"	40	00	1 25	50 00	" " "	" "	" "	July 1, '58	4128
N. E. ¼ of N. E. ¼	3	"	"	42	00	1 25	52 50	Dec. 5, '52	Robert Meek	Robert Meek	May 23, '59	4318
N. W. ¼ of N. E. ¼	3	"	"	42	00	1 25	52 50	M'ch 31, '52	Richard Greene	Richard Greene	Feb. 16, '53	2927
S. W. ¼ of N. E. ¼	3	"	"	40	00	1 25	50 00	Jan'y 1, '53	David Jones	David Jones	July 1, '58	3253
E. ½ of N. W. ¼	3	"	"	82	00	1 25	102 50	" 12, "	Jas. A. Cunningham	J. A. Cunningham	July 1, '58	3277
N. W. ¼ of N. W. ¼	3	"	"	42	00	1 25	52 50	Dec. 5, '53	Robert Meek	Robert Meek	May 31, '59	4317
N. E. ¼ of S. W. ¼	3	"	"	40	00	1 25	50 00	M'ch 31, '52	John Long	John Long	Feb. 16, '53	2925
S. E. ¼ of S. W. ¼	3	"	"	40	00	1 25	50 00	M'ch 31, '52	George Hull	George Hull	Feb. 16, '53	2926
W. ½ of S. E. ¼	3	"	"	80	00	1 25	100 00	Sep. 31, '52	John Long	John Long	Feb. 16, '53	2925
S. E. ¼ of S. E. ¼	3	"	"	40	00	1 25	50 00	Feb. 18, '53	Clark Luther	Clark Luther	July 1, '58	3327
Lot No. 4, N. W. ¼ of N. E. ¼	5	"	"	87	94	1 25	109 92½	Oct. 29, '53	Washington J. & E. O. Nutt	Washington J. & E. O. Nutt	July 1, '58	2997
N. W. ¼ of N. W. ¼	5	"	"	37	99	1 25	}					
W. ½ of S. W. ¼	5	"	"	40	00	1 25	} 97 84¾	Dec. 5, '53	Robt. Meek	Robert Meek	May 23, '59	4320
S. ½ of S. W. ¼	5	"	"	80	00	1 25	100 00	Nov. 8, '53	Seth Richards	Seth Richards	July 1, '58	4057
N. ½ of N. E. ¼	7	"	"	80	00	1 25	100 00	Nov. 10, "	Randolph Cox	Randolph Cox	July 1, '58	4080
E. ½ of N. E. ¼	7	"	"	80	00	1 25	100 00	Oct. 31, '53	John J. Boswell	John J. Boswell	July 1, '58	4009
W. ½ of S. E. ¼	7	"	"	80	00	1 25	100 00	Oct. 31, '53	Henry Kirby	Henry Kirby	July 1, '58	4010
Lot 3, & N. ½ of N. E. ¼	9	"	"	132	58	1 25	165 72½	Sep. 29, '52	Sarah Murphy	Sarah Murphy	Feb. 16, '53	3105
S. W. ¼ of N. W. ¼	9	"	"	40	00	1 25	50 00	Oct. 22, '52	James Berry	James Berry	July 1, '58	3132
Lot No. 5	9	"	"	20	72	1 25	26 00	Aug. 22, '53	Gilman Hornbuckle	Gilman Hornbuckle	July 1, '58	3718
E. ½ of N. W. ¼ & S. W. ¼ of S. W. ¼	9	"	"	120	00	1 25	150 00	" " "	" "	" "	July 1, '58	3718
S. W. ¼ of S. E. ¼	9	"	"	40	00	1 25	50 00	Oct. 5, '53	Robert Jones	Robert Jones	Feb. 1, '58	3854
S. E. ¼ of S. E. ¼	9	"	"	40	00	1 25	50 00	Oct. 8, "	Sanford D. Williams	J. Sanford D. Williams	Feb. 1, '58	3874
Lot No. 7	9	"	"	50	00	1 25	62 50	Nov. 2, '53	David Miller	David Miller	July 1, '58	4018
N. W. ¼ of N. E. ¼	11	"	"	40	00	1 25	50 00	Nov. 14, '53	John D. Sanford	John D. Sanford	July 1, '58	4129
S. ½ of N. E. ¼	11	"	"	80	00	1 25	100 00	M'ch 31, '52	Josua Wheeler	Joshua Wheeler	Feb. 16, '53	2929
N. E. ¼ of N. W. ¼	11	"	"	40	00	1 25	50 00	" " "	Jesse Hull	Jesse Hull	Feb. 16, '53	2928
N. W. ¼ of N. W. ¼	11	"	"	40	00	1 25	50 00	Ap'l 30, '53	Richard Greene	Richard Greene	June 1, '54	3427
S. W. ¼ of N. W. ¼	11	"	"	40	00	1 25	50 00	Oct. 20, '53	George Keigley	George Keigley	July 1, '58	3935
N. ½ of S. E. ¼	11	"	"	80	00	1 25	100 00	Nov. 26, '53	William Halston	William Halston	July 1, '58	4261
S. E. ¼ of S. E. ¼	11	"	"	40	00	1 25	50 00	M'ch 31, '52	William Holston	Wm. Holston	Feb. 16, '53	2930
W. ½ of N. W. ¼, N. W. ¼ of S. W. ¼	13	"	"	120	00	1 25	150 00	M'ch 31, '52	Samuel Luther	Samuel Luther	Feb. 16, '53	2931
S. W. ¼ of S. W. ¼	13	"	"	40	00	1 25	50 00	June 20, '53	Sam'l Luther	Sam'l Luther	July 1, '58	3576

Parts of section.	Section.	Township.	Range.	Acres.	100ths.	Price per acre.	Amount.	Date of sale.	Name of purchaser.	To whom patented.	Date of patent.	No. of patent.
N. E. ¼ of S. W. ¼	13	82	26	40	00	1 25	50 00	June 20, '53	Samuel Luther	Sam'l Luther	July 1, '58	3597
W. ½ of N. E. ¼	23	"	"	80	00	1 25	100 00	M'ch 31, '52	Henry Granes	Henry Granes	Feb. 16, '53	2934
W. ½ of N. W. ¼	23	"	"	80	00	1 25	100 00	" " "	Alfred Harris	Alfred Harris	Feb. 16, '53	2933
W. ½ of S. E. ¼	23	"	"	80	00	1 25	100 00	" " "	" "	" "	Feb. 16, '53	2933
N. E. ¼ of S. E. ¼	23	"	"	40	00	1 25	50 00	Oct. 7, '53	John Anderson	John Anderson	July 1, '58	3868
Lot No. 1	27	"	"	27	80	1 25	} 96 47	" 1, "	Chas. J. Anderson	Chas. J. Anderson	July 1, '58	} 3843
Lot No. 2	27	"	"	49	38	1 25						} 3843
Lot No. 3	27	"	"	37	33	1 25	46 66	" 7, "	John Anderson	John Anderson	July 1, '58	3867
Lot No. 5	27	"	"	49	55	1 25	62 93	M'ch 30, '53	Wm. Noland	Wm. Noland	June 1, '54	3388
Lot No. 6	27	"	"	19	75	1 25	24 68¾	Nov. 26, '53	Phineas M. Casady	Phineas M. Casady	July 1, '58	4225
Lot No. 7	27	"	"	36	20	1 25	45 25	M'ch 30, '53	Wm. Noland	Wm. Noland	June 1, '54	3388
N. E. ¼ of N. W. ¼	27	"	"	40	00	1 25	50 00	M'ch 30, '53	" "	" "	June 1, '54	3388
N. W. ¼ of N. W. ¼	27	"	"	40	00	1 25	50 00	Oct. 20, '53	" "	" "	Sept. 1, '58	3933
N. E. ¼, S. E. ¼	27	"	"	40	00	1 25	50 00	Dec. 6, '53	Robert Meek	Robert Meek	May 23, '59	4334
S. E. ¼ of S. E. ¼	27	"	"	40	00	1 25	50 00	Oct. 1, '53	Chas. J. Anderson	Chas. J. Anderson	July 1, '58	3843
S. E. ¼ of N. E. ¼	29	"	"	40	00	1 25	50 00	Sep. 8, '52	Elam S. Preston	Elam S. Preston	Feb. 16, '53	3082
N. W. ¼ of S. W. ¼	29	"	"	40	00	1 25	50 00	Oct. 13, '53	Jos. Miller	Jos. Miller	July 1, '58	3899
N. ½ of S. E. ¼	29	"	"	80	00	1 25	100 00	Jan. 15, '53	David Miller	David Miller	July 1, '58	3281
E. ½ of N. E. ¼	31	"	"	80	00	1 25	100 00	Sep. 8, '52	Elam S. Preston	Elam S. Preston	Feb. 16, '53	3083
N. ½ of N. E. ¼	33	"	"	80	00	1 25	100 00	Nov. 25, '52	Almeran Waldo	Almeran Waldo	July 1, '58	3205
N. E. ¼ of N. W. ¼	33	"	"	40	00	1 25	50 00	July 30, '53	John Blaugher	John Blaugher	July 1, '58	3661
N. W. ¼ of N. W. ¼	33	"	"	40	00	1 25	50 00	Oct. 1, '53	Alex'r P. Townsend	Alex. P. Townsend	July 1, '58	3836
S. ½ of N. W. ¼	33	"	"	80	00	1 25	100 00	Nov. 25, '52	Almeran Waldo	Almeran Waldo	July 1, '58	3205
S. W. ¼ of S. E. ¼	33	"	"	40	00	1 25	50 00	M'ch 31, '52	Jesse S. Dicks	Jesse S. Dicks	Feb. 16, '53	2935
S. E. ¼ of S. E. ¼	33	"	"	40	00	1 25	50 00	" " "	Crawford Cole	Crawford Cole	Feb. 16, '53	2935
N. E. ¼ of S. E. ¼	33	"	"	40	00	1 25	50 00	M'ch 29, '53	Montgomery McCall	Montgomery McCall	June 1, '54	3386
N. ½ of S. W. ¼	35	"	"	80	00	1 25	100 00	" 31, '52	Benjamin Williams	Benjamin Williams	Feb. 16, '53	2937
S. ½ of S. W. ¼	35	"	"	80	00	1 25	100 00	July 13, '53	Chas. W. Gastvon	Chas. W. Gastvon	July 1, '58	3617
S. E. ¼ of	35	"	"	160	00	1 25	200 00	M'ch 31, '52	Alfred Harris	Alfred Harris	Feb. 16, '53	2938
W. ½ of N. E. ¼ & E. ½ of N. W. ¼	1	83	26	100	00	1 25	126 00	Nov. 18, '53	Robert Meek	Robert Meek	July 1, '58	4193
W. ½ of N. W. ¼	1	"	"	50	40	1 25	63 00	" " "	" "	" "	July 1, '58	4197
S. W. ¼ of	1	"	"	160	00	1 25	200 00	" "	" "	" "	July 1, '58	4194
W. ½ of S. E. ¼	1	"	"	80	00	1 25	100 00	" "	" "	" "	July 1, '58	"
W. ½ of N. E. ¼	3	"	"	51	37	1 25	64 46	Oct. 10, '53	John M. Wear	John M. Wear	July 1, '58	3881
N. W. ¼ of	3	"	"	103	49	1 25	} 179 27½	Nov. 26, '53	Robert Meek	Robert Meek	July 1, '58	} 4268
N. E. ¼ of S. W. ¼	3	"	"	40	00	1 25						} 4268
N. W. ¼ of S. W. ¼	3	"	"	40	00	1 25	50 00	Nov. 6, '53	" "	" "	May 23, '69	4333

353 Parts of section.	Section.	Township.	Range.	Acres.	100ths.	Price per acre.	Amount.	Date of sale.	Name of purchaser.	To whom patented.	Date of patent.	No. of patent.
S. W. ¼ of S. W. ¼	3	83	26	40	00	1 25	50 00	Nov. 26, '53	Robert Meek	Robert Meek	July 16, '58	4270
S. E. ¼ of S. W. ¼	3	"	"	40	00	1 25	50 00	Dec. 5, '53	" "	" "	May 23, '59	4327
E. ½ of N. E. ¼	5	"	"	53	00	1 25	66 25	Nov. 18, '53	" "	" "	July 1, '58	4162
S. W. ¼ of	5	"	"	160	00	1 25	200 00	Aug. 20, '53	Jacob Gutshall	Jacob Gutshall	July 1, '58	3708
N. W. ¼ of S. E. ¼	5	"	"	40	00	1 25	50 00	July 30, '53	John Howser	John Howser	July 1, '58	3658
N. E. ¼ of S. E. ¼	5	"	"	40	00	1 25	50 00	Oct. 1, '53	Nelson J. Meeker	Nelson J. Meeker	July 1, '58	3821
S. E. ¼ of S. E. ¼	5	"	"	40	00	1 25	50 00	M'ch 31, '52	John A. McFarland	John A. McFarland	Feb. 16, '53	2939
Lot No. 2	7	"	"	43	15	1 25	53 93¾	Nov. 18, '53	Robert Meek	Robert Meek	July 1, '58	4166
N. ½ of N. E. ¼	9	"	"	80	00	1 25	100 00	M'ch 31, '52	Uriah Hull	Uriah Hull	Feb. 16, '53	2940
E. ½ of N. W. ¼	9	"	"	80	00	1 25	100 00	Dec. 20, '52	James Harlin	James Harlin	July 1, '58	3230
W. ½ of N. W. ¼	9	"	"	80	00	1 25	100 00	" " "	John Johnson	John Johnson	July 1, '58	3231
W. ½ of S. W. ¼	9	"	"	80	00	1 25	100 00	Nov. 18, '53	Robert Meek	Robert Meek	July 1. '58	4185
N. E. ¼ of S. W. ¼	9	"	"	40	00	1 25	50 00	Nov. 5, '53	Ely H. Kelian	Ely H. Kelian	July 1, '58	4044
S. E. ¼ of S. W. ¼	9	"	"	40	00	1 25	50 00	" 17, '53	David A. Kelian	David A. Kelian	July 1, '58	4155
W. ½ of S. E. ¼ & S. W. ¼ of N. E. ¼	9	"	"	120	00	1 25	150 00	Oct. 10, '53	Robert A. Ware	Robert A. Ware	July 1, '58	3882
E. ½ of S. E. ¼ & S. E. ¼ of N. E. ¼	9	"	"	120	00	1 25	150 00	M'ch 31, '52	James Hull	James Hull	Feb. 16, '53	2941
N. W. ¼ of N. E. ¼	11	"	"	40	00	1 25	50 00	Ap'l 19, '53	Geo. W. Payne	Geo. W. Payne	June 1, '54	3415
N. E. ¼ of N. W. ¼	11	"	"	40	00	1 25	50 00	Ap'l 19, '53	John N. Latham	John N. Latham	June 1, '54	3414
N. W. ¼ of N. W. ¼	11	"	"	40	00	1 25	50 00	Nov. 17, '53	Woodson D. Parker	Woodson D. Parker	July 1, '58	4151
S. E. ¼ of N. W. ¼	11	"	"	40	00	1 25	50 00	Dec. 5, '53	Robert Meek	Robert Meek	May 23, '59	4323
S. W. ¼ of S. W. ¼	11	"	"	40	00	1 25	50 00	" 20, '52	George Hull	George Hull	Feb. 1, '58	3233
S. E. ¼ of S. W. ¼	11	"	"	40	00	1 25	50 00	Nov. 12, '53	Jno. B. Montgomery	Jno. B. Montgomery	July 1, '58	4118
N. W. ¼ of S. E. ¼	11	"	"	40	00	1 25	50 00	M'ch 31, '52	Woodson D. Parker	Woodson D. Parker	Feb. 16, '53	2942
N. ½ of N. W. ¼	15	"	"	80	00	1 25	100 00	Dec. 27, '52	Squire Boon	Squire Boon	July 1, '58	3238
W. ½ of S. W. ¼	15	"	"	80	00	1 25	100 00	Dec. 5, '53	Robert Meek	Robert Meek	May 23, '59	4325
N. ½ of N. E. ¼	17	"	"	80	00	1 25	100 00	Dec. 20, '52	John Johnson	John Johnson	July 1, '58	3232
N. W. ¼ of N. W. ¼	17	"	"	40	00	1 25	50 00	Ap'l 19, '53	Jacob Crooks	Jacob Crooks	June 1, '54	3413
Lot No. 2, & S. W. ¼ of N. E. ¼	17	"	"	71	45	1 25	89 31¼	Dec. 5, '53	Robert Meek	Robert Meek	May 23, '59	4326
Lot No. 8	17	"	"	27	62	1 25	32 52	Dec. 22, '53	Isaac Cooper	Isaac Cooper	May 31, '59	4413
N. ½ of	19	"	"	308	74	1 25	385 92½	Dec. 5, '53	Robt. Meek	Robt. Meek	May 23, '59	4322
N. ½ of N. E. ¼	21	"	"	80	00	1 25	100 00	M'ch 31, '52	John H. Hoffman	John H. Hoffman	Feb. 16, '53	2443
S. ½ of N. E. ¼	21	"	"	80	00	1 25	100 00	Oct. 1, '53	Dan'l P. Eppert	Dan'l P. Eppert	July 1, '58	3796
N. W. ¼ of N. W. ¼	21	"	"	39	42	1 25	49 27½	Dec. 22, '53	Joseph B. Stewart	Joseph B. Stewart	May 31, '59	4414
S. W. ¼ of N. W. ¼	21	"	"	36	80	1 25	46 00	Dec. 27, '52	Philip Hull	Philip Hull	July 1, '58	3240
S. W. ¼ of S. W. ¼	21	"	"	40	00	1 25	50 00		" "	" "	July 1, '58	3240

Parts of section.	Section.	Township.	Range.	Acres.	100ths.	Price per acre.	Amount.	Date of sale.	Name of purchaser.	To whom patented.	Date of patent.	No. of patent.
S. E. ¼ of S. W. ¼	21	83	26	40	00	1 25	50 00	Feb. 18, '53	Philip Hull	Philip Hull	July 1, '58	3329
W. ½ of S. E. ¼	21	"	"	80	00	1 25	100 00	July 19, '52	Thomas Sparks	Thomas Sparks	Feb. 16, '53	2982
S. E. ¼ of S. E. ¼	21	"	"	40	00	1 25	50 00	" " "	" "	" "	Feb. 16, '53	2982
N. E. ¼ of S. E. ¼	21	"	"	40	00	1 25	50 00	Dec. 27, '52	Philip Hull	Philip Hull	July 1, '58	3240
N. W. ¼ of N. E. ¼	23	"	"	40	00	1 25	50 00	" 5, '53	Robert Meek	Robert Meek	May 23, '59	4324
S. ½ of N. E. ¼	23	} "	"	160	00	1 25	200 00	Nov. 26, '53	Robt. N. Cartwright	R'b't N. Cartright	July 1, '58	4264
N. ½ of S. E. ¼	"	}										
S. E. ¼ of S. E. ¼	23	"	"	40	00	1 25	50 00	Apr. 19, '53	Philip Hall	Philip Hall	June 1, '54	3412
S. W. ¼ of S. E. ¼	23	"	"	40	00	1 25	50 00	Dec. 5, '53	Robert Meek	Robert Meek	May 23, '59	4324
S. W. ¼ of	23	"	"	160	00	1 25	200 00	Oct. 1, '53	Dan'l P. Eppert	Daniel P. Eppert	July 1, '58	3795
N. W. ¼ of	23	"	"	160	00	1 25	200 00	Dec. 27, '52	Squire Boone	Squire Boon	July 1, '58	3239
E. ½ of N.W. ¼	25	} "	"	120	00	1 25	150 00	Nov. 4, '53	Redrick Cartright	Redrick Cartright	July 1, '58	4041
& N.W. ¼ of N.W. ¼	25	}										
N. W. ¼ of N. E. ¼	27	"	"	40	00	1 25	50 00	Oct. 31, '53	James Gildea	James Gildea	July 1, '58	4003
S. ½ of N. E ¼	27	"	"	80	00	1 25	100 00	Dec. 5, '53	Robert Meek	Robert Meek	May 23, '59	4328
N. ½ of N. W. ¼	27	"	"	80	00	1 25	100 00	M'ch 31, '52	William Sawyer	William Sawyer	Feb. 16, '53	3944
S. ½ of N. W. ¼	27	"	"	80	00	1 25	100 00	" " "	Samuel Sawyer	Samuel Sawyer	Feb. 16, '53	2945
S. W. ¼ of	27	"	"	160	00	1 25	200 00	Feb. 18, '53	James E. Moss	James E. Moss	July 1, '58	3330
S. E. ¼ of	27	"	"	160	00	1 25	200 00	March 31, '52	James E. Moss	James E. Moss	Feb'y16, '53	2946
Lot No. 4, & S. E. ¼ of N. E. ¼	29	"	"	82	25	1 25	102 81¼	Dec. 5, '53	Robert Meek	Robert Meek	May 23, '59	4321
E. ½ of S. W. ¼, N. W. ¼ of S. W. ¼, & lots 8 & 9	29	"	"	189	66	1 25	237 07½	Nov. 12, '53	William J. Sparks	William J. Sparks	July 1, '58	4120
N. E. ¼ of	31	"	"	160	00	1 25	200 00	March 31, '53	Joshua Bennett	Joshua Bennett	July 1, '54	3387
E. ½ of N. W. ¼	31	"	"	80	00	1 25	100 00	Nov. 18, '53	Robert Meek	Robert Meek	July 1, '58	4165
E. ½ of S. E. ¼ & S. W. ¼ of S. E. ¼	31	"	"	120	00	1 25	150 00	Dec. 7, '53	" "	" "	May 23, '59	4340
E. ½ of N. E. ¼	33	"	"	80	00	1 25	100 00	Nov. 4, '53	Redick Cartright	Redick Cartright	July 1, '58	4040
Lot No. 6	33	"	"	41	00	1 25	51 25	M'ch 30, '53	Joshua Bennett	Joshua Bennett	June 1, '54	3387
S. W. ¼ of S. W. ¼	33	"	"	40	00	1 25	50 00	" " "	" "	" "	June 1, '54	3387
Lot No. 8	33	"	"	31	85	1 25	39 81¼	Dec. 8, '53	" "	" "	Sept. 1, '58	4350
Lot No. 2	33	"	"	42	95	1 25	53 68¾	Nov. 17, '53	Thomas Edmund	Thomas Edmund	July 1, '58	4154
N. E. ¼ of S. E. ¼	33	"	"	40	00	1 25	50 00	Feb. 18, '53	Henry Bean	Henry Bean	July 1, '58	3328
S. E. ¼ of S. E. ¼	33	"	"	40	00	1 25	50 00	Nov. 17, '53	William Dyre	William Dyre	July 1, '58	4153
N. E. ¼ of N. E. ¼	35	"	"	40	00	1 25	50 00	Nov. 25, '53	" "	" "	July 1, '58	4250
N. W. ¼ of N. E. ¼	35	"	"	40	00	1 25	50 00	M'ch 31, '52	Clark Luther	Clark Luther	Feb'y16, '53	2947
S. W. ¼ of N. E. ¼	35	"	"	40	00	1 25	50 00	Feb'y18, '53	John Long	John Long	July 1, '58	3332
S. E. ¼ of N. E. ¼	35	"	"	40	00	1 25	50 00	Jan'y 12, '53	Jas. A. Cunningham	Jas. A. Cunningham	Feb'y 1, '58	3278
E. ½ of N. W. ¼	35	"	"	80	00	1 25	100 00	M'ch. 31, '52	Clark Luther	Clark Luther	Feb'y16, '53	2047

355 Parts of section.	Section.	Township.	Range.	Acres.	100ths.	Price per acre.	Amount.	Date of sale.	Name of purchaser.	To whom patented.	Date of patent.	No. of patent.
N. W. ¼ of N. W. ¼	35	83	26	40	00	1 25	50 00	M'ch 31, '52	Clark Luther	Clark Luther	Feb'y 16, '53	2947
S. W. ¼ of S. W. ¼	35	"	"	40	00	1 25	50 00	" " "	William Dickinson	William Dickinson	Feb'y 16, '53	2948
S. W. ¼ of S. W. ¼	35	"	"	80	00	1 25	100 00	" " "	Richard Greene	Richard Greene	Feb'y 16, '53	2950
S. E. ¼ of S. W. ¼	35	"	"	40	00	1 25	50 00	Nov. 25, '53	Peter Cagle	Peter Cagle	July 1, '58	4246
N. W. ¼ of S. E. ¼	35	"	"	40	00	1 25	50 00	M'ch 31, '52	William Hull	William Hull	Feb'y 16, '53	2951
N. E. ¼ of S. E. ¼	35	"	"	40	00	1 25	50 00	Feb'y 18, '53	John Sturdivant	John Sturdivant	July 1, '58	3331
N. E. ¼ of N. E. ¼	5	84	26	40	00	1 25	50 00	M'ch 31, '52	John Long	John Long	Feb'y 16, '53	2949
N. ½ of N. W. ¼ & N. W. ¼ of N. E. ¼	5	"	"	59	21	1 25	74 10½	Nov. 11, '53	Thomas Cox	Thomas Cox	July 1, '58	4035
S. E. ¼ of N. E. ¼	5	"	"	179	31	1 25	224 13	Sept. 12, '53	Michael Clapp	Michael Clapp	July 1, '58	3744
S. W. ¼ of N. E. ¼	5	"	"	40	00	1 25	50 00	Sept. 12, '53	Mary Wheeler	Mary Wheeler	July 1, '58	3743
S. E. ¼ of N. W. ¼	5	"	"	80	00	1 25	100 00	Nov. 4, '53	George Ward	George Ward	July 1, '58	4036
N. ½ of S. W. ¼												
S. W. ¼ of S. W. ¼	5	"	"	80	00	1 25	100 00	Octo. 17, '53	Josiah M. Thrift	Josiah M. Thrift	July 1, '58	3914
S. E. ¼ of S. W. ¼	5	"	"	40	00	1 25	50 00	Nov. 4, '53	George Ward	George Ward	July 1, '58	4037
N. W. ¼ of S. E. ¼	5	"	"	40	00	1 25	50 00	Nov. 18, '53	Robert Meek	Robert Meek	July 1, '58	4187
N. E. ¼ of S. W. ¼	5	"	"	40	00	1 25	50 00	Sep. 12, '53	Mary Wheeler	Mary Wheeler	July 1, '58	3743
E. ½ of N. W. ¼												
N. W. ¼ of N. E. ¼	7	"	"	160	00	1 25	200 00	Nov. 17, '53	Joseph B. Stewart	Joseph B. Stewart	July 1, '58	4160
N. E. ¼ of N. W. ¼												
S. E. ¼ of S. E. ¼	7	"	"	40	00	1 25	50 00	Sept. 12, '53	Joshua W. Wheeler	Joshua W. Wheeler	July 1, '58	3746
E. ½ of	9	"	"	320	00	1 25	400 00	Nov. 14, '53	Alexander H. Woods	Alexander H. Woods	July 1, '58	4135
S. W. ¼ of N. W. ¼	9	"	"	40	00	1 25	50 00	" 17, '53	Lawrence Wahal	Lawrence Wahal	July 1, '58	4152
N. ½ of S. W. ¼	9	"	"	80	00	1 25	100 00	" " "	" "	" "	July 1, '58	4152
S. ½ of S. W. ¼	9	"	"	80	00	1 25	100 00	" 4 "	Jeremiah Gorden	Jeremiah Gorden	July 1, '58	4038
W. ½ of	15	"	"	320	00	1 25	400 00	" 14 "	Andrew J. Por	Andrew J. Por	July 1, '58	4136
E. ½ of N. E. ¼	17	"	"									
E. ½ of S. E. ¼	17	"	"	160	00	1 25	200 00	" 17, "	Robert L. Fidrick	Robert L. Fidrick	July 1, '58	4159
W. ½ of S. E. ¼ & S. W. ¼ of N. E. ¼	17	"	"	120	00	1 25	150 00	" 18, "	Robert Meek	Robert Meek	July 1, '58	4195
E. ½ of S. W. ¼ & S. E. ¼ of N. W. ¼	17	"	"	120	00	1 25	150 00	" 18, "	Robert Meek	Robert Meek	July 1, '58	4195
N. E. ¼ of N. W. ¼	17	"	"	40	00	1 25	50 00	Sept. 12, '52	Frederick Hall	Frederick Hall	July 1, '58	3752
W. ½ of N. W. ¼ & W. ½ of S. W. ¼	17	"	"	160	00	1 25	200 00	" " "	Joshua W. Wheeler	Joshua W. Wheeler	July 1, '58	3747
N. W. ¼ of, S. ½ of N. E. ¼	19	"	"	272	58	1 25	340 62	Sept. 12, '53	William L. Pilcher	William L. Pilcher	July 1, '58	3749

Parts of section.	Section.	Township.	Range.	Acres.	100.	Price per acre.	Amount.	Date of sale.	Name of purchaser.	To whom patented.	Date of patent.	No. of patent.
N. ¼ of S. W. ¼	19	84	26	76	04	1 25	95 05	Sept. 12, '53	William Thomas	William Thomas	July 1, '58	3751
S. ¼ of S. W. ¼	19	"	"	75	88	1 25	94 85	" " "	Jonathan Godden	Jonathan Godden	July 1, '58	3750
S. E. ¼ of	19	"	"	160	00	1 25	200 00	Octo. 31, '53	John A. McFarland	John A. McFarland	July 1, '58	4002
N. E. ¼ of	21	"	"	160	00	1 25	200 00	" 11, "	Samuel Snyder	Samuel Snyder	July 1, '58	3886
N. W. ¼	21	"	"	160	00	1 25	200 00	" " "	John West	John West	July 1, '58	3885
W. ¼ of S. W. ¼	21	"	"	80	00	1 25	100 00	Nov. 14, '53	John B. Sanford	John B. Sanford	July 1, '58	4132
S. E. ¼ of S. W. ¼	21	"	"	40	00	1 25	50 00	Oct. 10, '53	John Houser	John Houser	July 1, '58	3803
S. E. ¼, & N. E. ¼ of S. W. ¼	21	"	"	200	00	1 25	250 00	" " "	Jacob Gutshall	Jacob Gutshall	July 1, '58	3884
S. ½ of N. W. ¼, & S. W. ¼ of	23	"	"	240	00	1 25	300 00	Nov. 14, '53	John B. Sanford	John B. Sanford	July 1, '58	4134
S. E. ¼ of, S. ½ of N. E. ¼, & E. ½ of S. W. ¼	27	"	"	320	00	1 25	400 00	Nov. 10, '53	Abraham E. Heaslett	Abraham E. Heaslett	July 1, '58	4083
W. ½ of S. W. ¼	27	"	"	80	00	1 25	100 00	Sept. 12, '53	John Latham	John Latham	July 1, '58	3753
N. ½ of S. W. ¼, S. E. ¼ of N. E. ¼	29	"	"	120	00	1 25	150 00	Sept. 12, '53	Ezekiel S. Hinton	Ezekiel S. Hinton	July 1, '58	3754
N. W. ¼ of	29	"	"	160	00	1 25	200 00	" " "	Boone County	Boone County	July 1, '58	3741
W. ½ of S. W. ¼	29	"	"	80	00	1 25	100 00	" " "	William Wibester	William Wibester	July 1, '58	3757
E. ½ of S. W. ¼ / S. W. ¼ of N. E. ¼	29	"	"	120	00	1 25	150 00	Sept. 12, '53	Benton Post	Benton Post	July 1, '58	3755
S. E. ¼ of	29	"	"	160	00	1 25	200 00	" " "	Laban Latham	Laban Latham	July 1, '58	3756
E. ½ of N. E. ¼	31	"	"	80	00	1 25	100 00	" " "	John Latham	John Latham	July 1, '58	3758
N. W. ¼ of N. E. ¼	31	"	"	40	00	1 25	50 00	Nov. 18, '53	Robert Meek	Robert Meek	July 1, '58	4186
S. ½ of N. W. ¼	31	"	"	76	51	1 25	95 63¾	" " "	" "	" "	July 1, '58	4199
Lot No. 1	31	"	"	39	15	1 25	48 93¾	" 18, "	John Rose	John Rose	July 1, '58	4190
S. E. ¼ of S. E. ¼	31	"	"	40	00	1 25	50 00	Sept. 12, '53	John Latham	John Latham	July 1, '58	3758
N. ½ of N. E. ¼, N. E. ¼ of N. W. ¼	33	"	"	120	00	1 25	150 00	Sept. 12, '53	John Latham	John Latham	July 1, '58	3762
S. ½ of N. E. ¼, & S. E. ¼ of N. W. ¼	33	"	"	120	00	1 25	150 00	" " "	Henry Hoffman	Henry Hoffman	July 1, '58	3759
N. W. ¼ of N. W. ¼	33	"	"	40	00	1 25	50 00	" " "	Benjamin Williams	Benjamin Williams	July 1, '58	3760
S. W. ¼ of N. W. ¼	33	"	"	40	00	1 25	50 00	Nov. 5, '53	Joseph B. Stewart	Joseph B. Stewart	Sept. 9, '58	4045
S. E. ¼, & E. ½ of S. W. ¼	33	"	"	240	00	1 25	300 00	Sept. 12, '53	Michael Myers	Michael Myers	July 1, '58	3761
S. W. ¼ of N. W. ¼	35	"	"	40	00	1 25	50 00	Sept. 12, '53	James R. Payne	July 1, '58	July 1, '58	3763
W. ½ of S. W. ¼, & S. E. ¼ of S. W. ¼	35	"	"	120	00	1 25	150 00	" " "	James Hull	James Hull	July 1, '58	4196

357 Parts of section.	Section.	Township.	Range.	Acres.	100ths.	Price per acre.	Amount.	Date of sale.	Name of purchaser.	To whom patented.	Date of patent.	No. of patent.
S. ½ of S. E. ¼	35	84	26	80	00	1 25	100 00	Nov. 18, '53	Robert Meek	Robert Meek	July 1, '58	4196
S. W. ¼ of S. W. ¼	17	85	26	40	00	1 25	50 00	Dec. 10, '53	Jonathan C. James	Jonathan C. James	May 3, '59	4316
E. ½ of N. E. ¼	19	"	"	80	00	1 25	100 00	Nov. 18, '53	Robert Meek	Robert Meek	July 1, '58	4171
E. ½ of N. W. ¼	19	"	"	80	00	1 25	100 00	" 17, "	Joseph Richardson	Joseph Richardson	July 1, '58	4156
S. E. ¼ of S. E. ¼	19	"	"	40	00	1 25	50 00	" 14, "	John D. Sanford	John D. Sanford	July 1, '58	4133
N. E. ¼ of S. E. ¼	19	"	"	40	00	1 25	50 00	Oct. 11, '53	Tyler Higbee	Tyler Higbee	July 1, '58	3879
N. ½ of N. E. ¼, & N. E. ¼ of N. W. ¼	29	"	"	120	00	1 25	150 00	Nov. 6, '53	Robert Meek	Robert Meek	July 1, '58	4271
S. W. ¼ of N. E. ¼	29	"	"	40	00	1 25	50 00	" 18, "	" "	" "	July 1, '58	4178
W. ¼ of N. W. ¼, & S. E. ¼ of N. W. ¼	29	"	"	120	00	1 25	150 00	Nov. 18, '53	Robert Meek	Robert Meek	July 1, '58	4177
N. E. ¼ of S. W. ¼	29	"	"	40	00	1 25	50 00	Nov. 6, '53	" "	" "	July 1, '58	4271
N. ½ of S. E. ¼, S. E. ¼ of N. E. ¼	29	"	"	120	00	1 25	150 00	Sept. 12, '53	Willis L. Defere	Willis L. Defere	July 1, '58	3774
S. ½ of S. E. ¼	29	"	"	80	00	1 25	100 00	Sept. 12, '53	Henry Friedly	Henry Fredly	July 1, '58	3775
S. E. ¼ of N. E. ¼	31	"	"	40	00	1 25	50 00	" " "	Willis L. Defere	Willis L. Defere	July 1, '58	3775
W. ½ of N. E. ¼	31	"	"	80	00	1 25	100 00	Dec. 5, '53	Robert Meek	Robert Meek	May 31, '59	4331
S. E. ¼ of N. W. ¼	31	"	"	40	00	1 25	50 00	Octo. 17, "	Sophia Friedly	Sophia Friedly	July 1, '58	3918
W. ½ of N. W. ¼	31	"	"	68	54	1 25	85 67	Dec. 5, '53	Robert Meek	Robert Meek	May 31, '59	4331
S. E. ¼ of S. W. ¼, & S. W. ¼ of S. E. ¼	31	"	"	80	00	1 25	100 00	Dec. 5, '53	Robert Meek	Robert Meek	May 23, '59	4330
S. E. ¼ of S. E. ¼	31	"	"	40	00	1 25	50 00	Sept. 12, '53	William Vontrees	William Vontrees	July 1, '58	3777
N. E. ¼, & E. ½ of N. W. ¼	33	"	"	240	00	1 25	300 00	Oct. 4, '53	Milburn C. Williams	Milburn C. Williams	July 1, '58	3850
S. W. ¼ of N. W. ¼	33	"	"	40	00	1 25	50 00	" 17, "	Sarah Freedly	Sarah Freedly	July 1, '58	3986
N. W. ¼ of S. W. ¼	33	"	"	40	00	1 25	50 00	Sept. 12, '53	Zachariah Vontrees	Zachariah Vontrees	July 1, '58	3778
S. ½ of S. E. ¼	33	"	"	80	00	1 25	100 00	Nov. 18, '53	James M. Strutz	James M. Strutz	July 1, '58	4192
N. W. ¼ of S. E. ¼	33	"	"	40	00	1 25	50 00	Dec. 17, '53	Benj. F. Allen	B. F. Allen	Ap'l 20, '59	4394
S. ½ of S. E. ¼	9	87	87	80	00	1 25	100 00	Oct. 27, '53	Roscoe Boyster	Roscoe Boyster	July 1, '58	3981
S. E. ¼ of N. E. ¼	15	"	"	40	00	1 25	50 00	Nov. 26, '53	Peter F. Bryan	Peter F. Bryan	July 1, '58	4260
S. E. ¼ of N. W. ¼	"	"	"	40	00	1 25	50 00	Dec. 13, '53	Solomon Keeighler	Solomon Keeighler	May 31, '59	4372
N. W. ¼ of N. E. ¼	17	"	"	40	00	1 25	50 00	Sept. 12, '53	Benjamin Bell	Benjamin Bell	July 1, '58	5783
W. ½ of N. W. ¼	17	"	"	120	00	1 25	150 00	" " "	Benjamin Bell	Benjamin Bell	July 1, '58	3782
N. W. ¼ of S. W. ¼	17	"	"	40	00	1 25	50 00	Dec. 17, '53	Benjamin Bell	Benjamin Bell	May 31, '59	4395
S. E. ¼ of S. W. ¼	17	"	"	80	00	1 25	100 00	Sept. 12, '53	Peasley C. Bell	Peasley C. Bell	July 1, '58	3784
S. ½ of S. E. ¼	17	"	"	40	00	1 25	50 00	" " "	Washington Neece	Washington Neece	July 1, '58	3786
S. E. ¼ of S. W. ¼	21	"	"	40	00	1 25	50 00	" " "	James Craig	James Craig	July 1, '58	3785
S. W. ¼ of S. W. ¼	29	"	"	40	00	1 25	50 00					

Parts of section.	Section.	Township.	Range.	Acres.	100ths.	Price per acre.	Amount.	Date of sale.	Name of purchaser.	To whom patented.	Date of patent.	No. of patent.
Lots No. 1, 2, & 3	1	83	27	150	24	1 25	187 80	Oct. 20, '53	John Rose	John Rose	July 1, '58	3938
Lot No. 4	1	"	"	50	47	1 25	63 08	Nov. 4, '53	Samuel D. McCall	Saml. D. McCall	July 1, '58	4039
Lots No. 7, 8, & 9	1	"	"	119	56	1 25	149 38¾	Dec. 5, '53	Christopher Rogers	Christopher Rogers	May 31, '89	4316
W. ½ of N. W. ¼	1	"	"	52	70	1 25	65 87	Nov. 4, '53	Samuel D. McCall	Samuel D. McCall	July 1, '58	4039
S. W. ¼ of S. W. ¼	1	"	"	40	00	1 25	50 00	" 18, "	Robert Meek	Robert Meek	July 1, '58	4176
S. ½ of N. E. ¼ & N. ½ of S. E. ¼	11	"	"	160	00	1 25	200 00	Nov. 18, '53	Robert Meek	Robert Meek	July 1, '58	4163
N. W. ¼ of	11	"	"	160	00	1 25	200 00	Sept. 12, '53	Joseph M. Harvey	Joseph M. Harvey	July 1, '58	4 or 4 3(7)42
S. W. ¼ of S. E. ¼	11	"	"	40	00	1 25	50 00	Nov. 18, '53	Robert Meek	Robert Meek	July 1, '58	4175
S. W. ¼ of N. E. ¼ & N. E. ¼ of S. W. ¼	13	"	"	80	00	1 25	100 00	Oct. 31, '53	Amos M. Rose	Amos M. Rose	July 1, '58	4163
N. W. ¼ of S. W. ¼	13	"	"	40	00	1 25	50 00	Nov. 18, '53	Amos M. Rose	Amos M. Rose	July 1, '58	4191
N. E. ¼ of N. E. ¼	25	"	"	40	60	1 25	50 00	" 25, "	William R. Harris	William R. Harris	July 1, '58	4249
N. W. ¼, & N. ½ of S. W. ¼	25	"	"	240	00	1 25	300 00	Dec. 13, '53	Joseph B. Stewart	Joseph B. Stewart	Apl. 9, '59	4376
Lots No. 1 & 2	1	84	27	85	59	1 25	106 98¾	Nov. 26, '53	Willis L. Defere	Willis L. Defere	July 1, '58	4262
Lot No. 3	1	"	"	48	03	1 25	60 03¾	" "	Robert Meek	Robert Meek	July 1, '58	4269
S. E. ¼ of S. W. ¼	3	"	"	40	00	1 25	50 00	Sept. 12, '53	Andrew Johnson	Andrew Johnson	July 1, '58	3765
S. ½ of N. E. ¼, & S. E. ¼ of N. W. ¼	11	"	"	120	00	1 25	150 00	Nov. 18, '53	Robert Meek	Robert Meek	July 1, '58	4170
N. E. ¼ of S. E. ¼	11	"	"	40	00	1 25	50 00	Nov. 26, '53	Robert Meek	Robert Meek	July 1, '58	4265
N. E. ¼ of S. W. ¼	11	"	"	40	00	1 25	50 00	Sept. 12, '53	William Hall	William Hall	July 1, '58	2766
N. W. ¼ of S. W. ¼	11	"	"	40	00	1 25	50 00	Nov. 26, '53	Robert Meek	Robert Meek	July 1, '58	4265
Lots No. 1, 2, & 3	13	"	"	110	21	1 25	144 01	Sept. 12, '53	Michael Sapp	Michael Sapp	July 1, '58	3745
Lot No. 4	13	"	"	41	50	1 25	51 89	" "	Jeremiah Gorden	Jeremiah Gorden	July 1, '58	3768
Lot No. 5, & N. E. ¼ of N. W. ¼	13	"	"	88	67	1 25	110 83	Sept. 12, '53	James Corbin	James Corbin	July 1, '58	3767
Lot No. 6	13	"	"	60	73	1 25	75 91	Oct. 29, '53	James Corbin	James Corbin	July 1, '58	3994
Lot No. 7, & N. W. ¼ of S. W. ¼	13	"	"	92	94	1 25	116 17½	Dec. 5, '53	Robert Meek	Robert Meek	May 23, '59	4329
Lot No. 8	13	"	"	26	51	1 25	33 13½	Oct. 29, '53	Isaac Nutt	Isaac Nutt	July 1, '58	3995
S. W. ¼ of N. W. ¼	13	"	"	40	00	1 25	50 00	" " "	William C. Crooks	William C. Crooks	July 1, '58	3996
S. ½ of S. W. ¼	13	"	"	80	00	1 25	100 00	Nov. 4, '53	Isaac Nutt	Isaac Nutt	July 1, '58	4034
S. E. ¼ of S. E. ¼	15	"	"	40	00	1 25	50 00	Oct. 25, '53	James Speckelmire	James Speckelmire	July 1, '58	3963
S. E. ¼ of S. W. ¼	15	"	"	40	00	1 25	50 00	Sept. 12, '53	Elisha Speckelmire	Elisha Speckelmire	July 1, '58	3769
S. E. ¼ of N. E. ¼	21	84	27	40	00	1 25	50 00	Nov. 18, '53	Robert Meek	Robert Meek	July 1, '58	4174
S. W. ¼ of S. W. ¼	21	"	"	40	00	1 25	50 00	Oct. 25, '53	Peter Dentiel	Peter Dentiel	July 1, '58	3964
N. E. ¼ of S. E. ¼	21	"	"	40	00	1 25	50 00	Nov. 26, '53	Robert Meek	Robert Meek	July 1, '58	4266

359 Parts of section.	Section.	Township.	Range.	Acres.	100ths.	Price of acre.	Amount.	Date of sale.	Name of purchaser.	To whom patented.	Date of patent.	No. of patent.
Lots No. 1 & 2	23	84	27	73	86	1 25	92 32	Sept. 12, '53	James B. Hamilton	James B. Hamilton	July 1, '58	3771
Lots No. 3 & 4	23	"	"	78	94	1 25					July 1, '58	2962
W. ½ of N. W. ¼, & N. E. ¼ of N. W. ¼	23	"	"	120	00	1 25	248 67	Oct. 25, '53	James Speckelmire	James Speckelmire	July 1, '58	3262
Lots No. 5 & 6	23	"	"	85	90	1 25	107 37½	Nov. 12, '53	John Pea, senior	John Pea, sr	July 1, '58	4119
Lot No. 9	23	"	"	39	80	1 25	49 76½	" 26, "	Robert Meek	Robert Meek	July 1, '58	4267
Lot No. 7, & S. W. ¼ of S. E. ¼	23	"	"	79	58	1 25	99 47½	" 14, "	John D. Sanford	John D. Sanford	July 1, '58	4131
E. ½ of S. E. ¼	23	"	"	80	00	1 25	100 00	Sept. 12, '53	Jacob Hoffman	Jacob Hoffman	July 1, '58	3770
N. E. ¼ of N. E. ¼	25	"	"	40	00	1 25	50 00	Nov. 25, '53	Bryan B. Martin	Bryan B. Martin	July 1, '58	4247
N. W. ¼ of N. E. ¼	25	"	"	40	00	1 25	50 00	Sept. 12, '53	Joshua W. Wheeler	Joshua W. Wheeler	July 1, '58	3748
S. E. ¼ of N. E. ¼	25	"	"	40	00	1 25	50 00	Nov. 25, '53	James M. Mortin	James M. Mortin	July 1, '58	4248
S. W. ¼ of N. E. ¼	25	"	"	40	00	1 25	50 00	Dec. 7, '53	Joshua Wheeler	Joshua Wheeler	May 31, '59	4351
E. ½ of N. W. ¼	25	"	"	80	00	1 25	100 00	Nov. 10, '53	Abraham E. Heaslett	Abraham E. Heaslett	July 1, '58	4084
W. ½ of N. W. ¼	25	"	"	80	00	1 25	100 00	Oct. 15, '53	William M. Boon	William M. Boon	July 1, '58	3907
E. ½ of S. W. ¼	25	"	"	80	00	1 25	100 00	Dec. 7, '53	William Bell	William Bell	May 31, '59	4337
N. W. ¼ of S. E. ¼	25	"	"	71	70	1 25	89 62½	Oct. 31, '53	William Holmes	William Holmes	July 1, '58	4000
N. E. ¼ of S. E. ¼	25	"	"	40	00	1 25	50 00	Nov. 12, '53	William C. Bell	William C. Bell	July 1, '58	4117
Lots No. 1 & 2, & N. E. ¼ of S. E. ¼	27	"	"	115	53	1 25	144 41	Sept. 12, '53	Samuel Eccles	Samuel Eccles	July 1, '58	3772
S. E. ¼ of S. E. ¼	27	"	"	40	00	1 25	50 00	Nov. 18, '53	Robert Meek	Robert Meek	July 1, '58	4164
N. E. ¼ of N. W. ¼	27	"	"	40	00	1 25	50 00	Dec. 2, '53	Joseph B. Stewart	Joseph B. Stewart	Apl. 9, '59	4299
Lots No. 1 & 2	35	"	"	74	89	1 25	93 61½	Nov. 18, '53	Robert Meek	Robert Meek	July 1, '58	4169
Lot No. 3	35	"	"	26	36	1 25	32 95	" " "	"	"	July 1, '58	4167
S. E. ¼ of	35	"	"	160	00	1 25	200 00	Sept. 12, '53	John A. McFarland	John A. McFarland	July 1, '58	3773
E. ½ of S. E. ¼	1	85	27	80	00	1 25	100 00	Nov. 18, '53	Robert Meek	Robert Meek	July 1, '58	4184
E. ½ of S. W. ¼	1	"	"	80	00	1 25	100 00	" 23, "	Thomas C. Kennedy	Thomas C. Kennedy	July 1, '58	4230
S. E. ¼ of N. E. ¼, N. E. ¼ of S. E. ¼	3	"	"	80	00	1 25	100 00	Sept. 12, '53	Ezra Rathburn	Ezra Rathburn	July 1, '58	3779
Lot. No. 7, & N. W. ¼ of N. W. ¼	3	"	"	99	20	1 25	124 00	Nov. 18, '53	Robert Niece	Robert Niece	July 1, '58	4182
N. E. ¼ of N. E. ¼	9	"	"	40	00	1 25	50 00	" " "	"	"	July 1, '58	4183
Lots No. 3, 6, & 7	11	"	"	118	46	1 25	148 06	Sept. 12, '53	John W. Tomlinson	John W. Tomlinson	July 1, '58	3780
Lot No. 3, & W. ½ of S. E. ¼, & S. E. ¼ of S. W. ¼	11	"	"	154	85	1 25	193 56½	Nov. 25, '53	William Phipps	William Phipps	July 1, '58	4251
N. E. ¼ of	13	"	"	160	00	1 51	200 00	" 23, '53	Thomas C. Kennedy	Thomas C. Kennedy	July 1, '58	4229
N. W. ¼ of S. E. ¼	13	"	"	40	00	1 25	50 00	" 18, "	Robert Meek	Robert Meek	July 1, '58	4181

Parts of section.	Section.	Township.	Range	Acres.	100ths.	Price per acre.	Amount.	Date of sale.	Name of purchaser.	To whom patented.	Date of patent.	No. of patent.
E. ½ of S. E. ¼	15	85	27	80	00	1 25	100 00	Nov. 18, '53	Robert Meek	Robert Meek	July 1, '58	4179
E. ½ of N. E. ¼	23	"	"	80	00	1 25	100 00	Dec. 16, '53	B. F. Allen	B. F. Allen	Ap'l 20, '59	4390
N. E. ¼ of N. E. ¼	25	"	"	40	00	1 25	50 00	Nov. 26, '53	Joseph Richardson	Joseph Richardson	July 1, '58	4263
N. E. ¼ of N. W. ¼	25	"	"	40	00	1 25	50 00	Nov. 18, '53	Robert Meek	Robert Meek	July 1, '58	4180
W. ½ of N. W. ¼, S. E. ¼ of N. W. ¼, N. W. ¼ of S. E. ¼	25	"	"	160	00	1 25	200 00	Nov. 26, '53	Robert Meek	Robert Meek	July 1, '58	4272
S. E. ¼ of S. W. ¼	25	"	"	40	00	1 25	50 00	" 18, "	Robert Meek	Robert Meek	July 1, '58	4172
Lot No. 5	27	"	"	37	54	1 25	46 93	Sept. 12, '53	Frederick Schlicht	Frederick Schlicht	July 1, '58	3781
Lot No. 7	27	"	"	63	00	1 25	78 75	Dec. 17, '53	Norman C. Anerile	Norman C. Anerile	May 31, '59	4397
S. W. ¼ of S. W. ¼	27	"	"	40	00	1 25	50 00	" 10, '53	Frederick Schlicht	Frederick Schlicht	May 31, '59	4360
S. E. ¼ of N. E. ¼	35	"	"	40	00	1 25	50 00	" 13, '53	Isam C. Hull	Isam C. Hull	May 31, '59	4375
S. W. ¼ of N. E. ¼	35	"	"	40	00	1 25	50 00	" 10, '53	David C Hull	David C. Hull	May 31, '59	4362
Lots No. 6 & 7, & S. E. ¼ of S. E. ¼	3	86	27	157	35	1 25	196 68¾	Dec. 6, '53	Robert Meek	Robert Meek	May 23, '59	4336
S. E. ¼ of N. E. ¼	15	"	"	40	00	1 25	50 00	Oct. 22, '53	Chas. J. & Uhannah Wolston	Chas J. & Uhannah Wolston	July 1, '58	3951
N. E. ¼ of S. W. ¼	15	"	"	40	00	1 25	50 00	" "	John Johnson	John Johnson	July 1, '58	3946
Lots Nos. 3 & 4	21	"	"	60	38	1 25	75 47	" 22 "	Joseph Harden	Joseph Harden	July 1, '58	3952
S. W. ¼ of S. W. ¼	23	"	"	40	00	1 25	50 00	" " "	Andrew J. Johnson	Andrew J. Johnson	July 1, '58	3945
S. E. ¼ of N. E. ¼	27	"	"	40	00	1 25	50 00	" " "	Jonas Errickson	Jonas Errickson	July 1, '58	3948
S. E. ¼ of N. E. ¼	27	"	"	40	00	1 25	50 00	" " "	Adolphus Hanson	Adolphus Hanson	Oct. 1, '58	3947
Lot No. 1	27	"	"	31	18	1 25	38 97	" " "	Joseph Harden	Joseph Harden	July 1, '58	3953
N. E. ¼ of N. W. ¼	35	"	"	40	00	1 25	50 00	" " "	John Smeenson	John Smeenson	" " '58	3950
S. E. ¼ of N. W. ¼	35	"	"	40	00	1 25	50 00	" " "	Andrew J. Johnson	Andrew J. Johnson	Oct. 1, '58	3944
N. ½ of S. E. ¼	35	"	"	80	00	1 25	100 00	Dec. 6, '53	Robert Meek	Robert Meek	May 23, '59	4335
S. E. ¼ of S. E. ¼	35	"	"	40	00	1 25	50 00	Oct. 22, '53	Andrew Adamson	Andrew Adamson	July 1, '58	3949
S. ½ of N. E. ¼, and S. ½ of N. W. ¼	1	87	27	160	00	1 25	200 00	Sept. 12, '53	William T. Woolsey	William T. Woolsey	July 1, '58	3787
S. ½ of N. W. ¼	11	"	"	80	00	1 25	100 00	" " "	Jesse Goodrich	Jesse Goodrich	July 1, '58	3788
W. ½ of S. W. ¼	11	"	"	80	00	1 25	100 00	" " "	Daniel Galer	Daniel Galer	July 1, '58	3790
S. W. ¼ of N. W. ¼	15	"	"	40	00	1 25	50 00	Oct. 31, '53	Squire McGuire	Squire McGuire	July 1, '58	4005
S. W. ¼ of S. W. ¼	15	"	"	40	00	1 25	50 00	Sept. 12, '53	Franklin McGure	Franklin McGuire	July 1, '58	3792
Lots No. 7 and 8	15	"	"	102	20	1 25	127 75	" " "	Francis McGure	Francis McGure	July 1, '58	3789 and 3906
Lot No. 3	23	"	"	49	40	1 25	100 62	Oct. 14, '53	Ludowick Mariele	Ludowick Mariele	July 1, '58	3906
Lot No. 2	23	"	"	29	70	1 25						
W. ½ of N. W. ¼	31	88	27	61	92	1 25	50 00	Oct. 17, '53	George E. Cross	George E. Cross	July 1, '58	3915
S. E. ¼ of S. W. ¼	31	"	"	40	00	1 25	50 00	Oct. 31, '53	John Johns	John Johns	July 1, '58	4006
S. W. ¼ of	3	88	28	160	00	1 25	200 00	Dec. 5, '53	Jesse Williams	Jesse Williams	May 31, '59	4313

361 Parts of section.	Section.	Township.	Range.	Acres.	100ths.	Price per acre.	Amount.	Date of sale.	Name of purchaser.	To whom patented.	Date of patent.	No. of patent.
Lot No. 4	5	88	28	38	43	1 25	48 03	Dec. 23, 53	Seth Richards	Seth Richards		4429
N. ½ of	9	"	"	320	00	1 25	400 00	" '5, "	Jesse Williams	Jesse Williams	May 31, '59	4312
Lots No. 1, 3, 4, 5, 6, & 8	15	"	"	290	13	1 25	362 66½	Nov. 9, '53	Seth Richards	Seth Richards	July 1, '58	4075
Lot No. 2	15	"	"	64	00	1 25	80 00	Dec. 23, '53	Seth Richards	Seth Richards	July 1, '58	4130
S. E. ¼ of S. E. ¼	15	"	"	40	00	1 25	50 00	Dec. 17, '53	David Leeming	David Leeming	May 31, '59	4396
Lot No. 1 and 2, 9, & 10	17	"	"	143	45	1 25	} 319 31	Dec. 22, '53	Seth Richards	Seth Richards		} 4425
Lots No. 6 and 8	17	"	"	112	00	1 25						} 4425
Lots 3, 4, 5 and 7	17	"	"	95	10	1 25	118 87½	Nov. 9, '53	Seth Richards	Seth Richards	July 1, '58	4076
Lot No. 4	23	"	"	58	88	1 25	73 60	" 2, "	Thos. E. Barger	Thos. E. Barger	July 1, '58	4013
S. W. ¼ of S. W. ¼	23	"	"	40	00	1 25	50 00	" " "	Isaac Garner	Isaac Garner	July 1, '58	4014
S. ½ of S. E. ¼, S. E. ¼ of S. W. ¼	23	"	"	120	00	1 25	150 00	Dec. 12, '53	Seth Richards	Seth Richards	May 31, '59	4364
N. W. ¼ of	25	88	28	160	00	1 25	200 00	Dec. 22, '53	Thomas Weaver	Thomas Weaver	May 31, '59	4410
W. ½ of S. W. ¼	25	"	"	80	00	1 25	100 00	Nov. " "	David E. Echart	David E. Echart	July 1, '58	4218
Lot No. 1	27	"	"	32	68	1 25	40 75	Dec. 12, '53	Seth Richards	Seth Richards	May 31, '59	4365
E. ½ of N. E. ¼	35	"	"	80	00	1 25	100 00	Sept. 12, '53	John Tolman	John Tolman	July 1, '58	3791
N. W. ¼ of N. W. ¼	17	89	28	40	00	1 25	50 00	Oct, 1, '53	Francis W. Allen	Francis W. Allen	July 1, '58	3842
W. ½ of S. W. ¼ & S. W. ¼ of N. W. ¼	17	"	"	120	00	2 00	240 00	Dec. 5, '53	Jesse Williams	Jesse Williams	M'ch. 14, '59	4308
S. E. ¼ of S. W. ¼	17	"	"	40	00	2 00	80 00	May 8, '55	Jesse Williams	Jesse Williams		4434
Lots No. 1 & 2	19	"	"	81	84	1 25	} 189 30	Jan. 19, '54	James B. Williams	James B. Williams	M'ch. 14, '59	} 4431
Lot No 3	19	"	"	69	60	1 25						} 4431
Lot No. 4, S. E. ¼ of S. E. ¼, and N. E. ¼ of S. E. ¼	19	"	"	135	40	1 25	169 25	Jan. 19, '54	Wm. Williams	Wm. Williams	M'ch. 14, '59	4432
N. E. ¼ of	19	"	"	160	00	1 25	200 00	" " "	John Gemp	John Gemp	" " "	4433
N. ½ of N. E. ¼	29	"	"	80	00	2 00						
N. W. ¼, & lots 2 & 3	29	"	"	238	21	2 00	636 42	Dec. 5, '53	Jesse Williams	Jesse Williams	M'ch. 14, '59	
S. W. ¼ of S. W. ¼	7	90	28	40	15	2 00	80 30	Dec. '53	Jesse Williams	Jesse Williams	May 3, '59	4311

Whereas the Des Moines Navigation and Railroad Company have heretofore claimed, and do now claim to have entered into certain contracts with the State of Iowa, by its officers and agents, concerning the improvement of the Des Moines River, in the State of Iowa, and
362 whereas disagreements and misunderstandings have arisen, and do now exist between the State of Iowa and said company, and it being conceived to be the interest of all parties concerned to have said matters, and all matters and things between said company and the State of Iowa, settled and adjusted: Now, therefore, be it—

Resolved by the general assembly of the State of Iowa, That for the purpose of such settlement, and for that purpose only, the following propositions are made by the State to said company: That the said company shall execute to the State of Iowa full releases and discharges of all contracts, agreements, and claims, with or against the State, including rights to water rents which may have heretofore or do now exist, and all claims of all kinds against the State of Iowa, and the lands connected with the Des Moines River improvement, excepting such as are hereby by the State secured to said company, and also surrender to said State the dredge boat and its appurtenance, belonging to said improvement; and the State of Iowa shall, by its proper officer, certify and convey to the said company all lands granted by an act of Congress approved August 8th, 1846, to the then Territory of Iowa, to aid in the improvement of the Des Moines River, which have been approved and certified to the State of Iowa by the general government, saving and excepting all lands sold or conveyed, or agreed to be sold or conveyed, to the State of Iowa by its officers and agents prior to the 23rd day of December, 1853, under said grant, and said company or its assignees shall have right to all of said lands as herein granted to them as fully as the State of Iowa could have under or by virtue of said grant, or in any manner whatever, with full power to settle all errors, false locations, omissions, or claims in reference to the same, and all pay or compensation therefor by the general government, but at the costs and charges of said company, and the State to hold all the balance of said lands, and all rights, powers, and privileges, under and by virtue of said grant, entirely released from any claim by or through said company, and it is understood that among the lands excepted, and not granted by the State to said company, are 25,487.87 acres, lying immediately above Raccoon Forks, supposed to have been sold by the general government, but claimed by the State of Iowa.

And it is further agreed that said company release and convey
363 to the State of Iowa, or its representatives, all materials of every kind and discription, prepared for or intended for the construction of locks or dams in said improvement, wheresoever the same may be, and the State shall take the existing contracts by no other liabilities of any name or nature, except as herein provided for, constructing or repairing the works on said improvement at Keosauqua, Bentonsport, Plymouth, and Croton, and no other or different, with all liabilities and advantages arising upon said contracts, and percentage retained thereon, excepting that the company shall pay all estimates for work done or material prepared up to the date beyond the percentage retained from the contractors under their agreements, and the said company shall be discharged from all liabilities for the claims of the officers of the State for services or salaries.

The said company hereby agree to pay to the State the sum of twenty thousand dollars, which sum shall be paid to the order of the commissioner of the Des Moines River improvement, (as fast as he may require

the same to liquidate existing liabilities against the said Des Moines River improvement,) on thirty days' notice given to said company at their office in the city of New York, and any bonds or certificates of indebtedness against said improvement, not exceeding in amount the sum of eleven thousand dollars, which are now due and unpaid, are to be received in part payment of said sum of twenty thousand dollars: *Provided*, That no liabilities, assumed by the State in this contract, shall be a charge against the State in her soverign capacity, but all such liabilities, if any, shall be chargeable upon and payable out of the remaining lands belonging to the Des Moines River grant: *And provided also*, That, if Congress shall permit a devision of the lands of said Des Moines River grant, or the title thereto shall become vested in the State so as to become subject to grant, the said remaining lands, after the payment of all the liabilities as aforesaid against said improvement, and the completion of such locks and dams on the Des Moines River, as the legislature shall direct, shall be granted to the Keokuk, Fort Des Moines & Minnesota Railroad Company to aid in the construction of a railroad up and along the valley of the Des Moines River, upon such terms and in such manner as the legislature may provide, one-fourth of which
364 said lands shall be applied by said company to aid in the construction of said railroad above the city of Des Moines: *And provided further*, That if the said De Moine Navigation and Railroad Company shall ratify and accept these propositions for a contract by filing a written acceptance thereof in the office of the secretary of state, within sixty days of the passage of this joint resolution, then this contract shall be in force, and bind both of the parties thereto.

(Signed) STEPHEN B. SHELLEDY,
Speaker of the House of Representatives.

(Signed) ORAN FAVILLE,
President of the Senate.

Approved March 2, 1858.

RALPH P. LOWE.

STATE OF IOWA, *ss:*

I, Elijah Sells, secretary of the State of Iowa, hereby certify that the foregoing is a true copy from the original roll on file in my office.

In testimony whereof, I have hereunto set my hand, and affixed the great seal of the State of Iowa. Done at Des Moines this 22d day of July, A. D. 1862.

[GREAT SEAL.] ELIJAH SELLS.

The De Moine Navigation and Railroad Company accepted the proposition, embodied in the joint resolution, within the time specified, in the following manner:

OFFICE OF THE DE MOINE NAVIGATION & R. R CO.,
18 *William st., New York, April* 15, 1858.

At a meeting of the board of directors of the De Moine Navigation and Railroad Company, held at their office, in the city of New York, on Thursday, the 15th of April, 1868, the following preamble and resolutions were adopted, to wit: Whereas, by joint resolution of the general assembly of the State of Iowa, approved the 22d day of March, 1858, the said general assembly did enact as follows, viz: [Here follows a copy of the joint resolution of the gen'l assembly.] *Resolved*, That the propositions and conditions of the above recited joint resolution be, and they
365 are hereby, ratified and accepted by the De Moine Navigation

and railroad, and that the president of the company cause a certified copy of this resolution, under the corporate seal, to be filed in the office of the secretary of state of the State of Iowa.

Resolved, That the president be, and he is hereby, authorized to execute, under the corporate seal of the company, the necessary and proper releases and discharges, in conformity with the provisions and conditions of the said joint resolution of the general assembly of the State of Iowa, and to cause the same to be filed in the office of the secretary of state of the State of Iowa.

I hereby certify that the foregoing is a true copy of the resolutions of the De Moine Navigation & Railroad Company, adobted by the board of directors of said company, at a meeting held on the 15th day of April, 1858, and duly recorded upon their book of minutes.

In witness whereof, I have hereunto affixed the corporate seal of the said company, together with my signature as its president, and have caused the same to be witnessed by the secretary of the said company.

(Signed) R. S. BURROWS,
President De Moine Nav. & R. R. Co.

JAMES C. PATTERSON,
Sec'y De Moine Nav. & R.R. Co.

SEC'Y OF STATE OFFICE, *Des Moines, Iowa:*

I hereby certify that the foregoing is a true and correct copy from the original roll on file in my office.

(Signed) ELIJAH SELLS, *Sec. State.*

366 Parts of section.	Section.	Township.	Range.	Acres.	100ths.	Date of sale.	To whom sold and patented.	Date of patent.	No. of patent.
S. W. ¼	29	79	22	160	00	May 14, '55	Des Moines Nav. & R. R. Co.	May 3d, 1858	9
S. ½ of S. E. ¼	31	"	"	80		"	" " " "	"	"
W. ½ of S. W. ¼	33	"	"	80		"	" " " "	"	"
S. W. ¼ of S. W. ¼	5	"	23	40		"	" " " "	"	"
N. E. ¼ of N. E. ¼	7	"	"	40		"	" " " "	"	"
S. W. ¼ of S. E. ¼ & N. E. ¼ of S. W. ¼	17	"	"	80		"	" " " "	"	"
N. W. ¼ of N. E. ¼ & S. E. ¼ of N. E. ¼	21	"	"	80		"	" " " "	"	"
S. W. ¼ of S. W. ¼, & lot "7"	5	"	24	66	75	"	" " " "	"	"
Lot 3	21	"	"	20	30	"	" " " "	"	"
N. E. ¼ of N. E. ¼	23	"	"	40		"	" " " "	"	"
N. ½ of N. W. ¼, S. W. ¼ of N. E. ¼, & N. W. ¼ of S. E. ¼	25	"	"	160		"	" " " "	"	"
N. W. f'l ¼ of N. W. f'l ¼ & S. E. ¼ of S. W. f'l ¼	31	80	23	88	66	"	" " " "	"	"
All of	3	"	24	640		"	" " " "	"	"
All of	11	"	"	640		"	" " " "	"	"
N. ½ & S. E. ¼	9	"	"	480		"	" " " "	"	"
W. ½, and W. ½ of S. E. ¼, & S. W. ¼ of N. E. ¼	13	"	"	440		"	" " " "	"	"
N. E. ¼	15	"	"	160		"	" " " "	"	"
W. ½ of N. E. ¼ & S. E. ¼ of N. E. ¼	17	"	"	120		"	" " " "	"	"
N. E. ¼ and E. ½ of N. W. ¼, & N. W. ¼ of N. W. ¼, and E. ½ of S. W. ¼, & W. ½ S. E. ¼	23	80	24	440		"	" " " "	"	"
S. E. ¼	25	"	"	160		"	" " " "	"	"
N. ½ N. W. ¼ and S. E. ¼ S. W. ¼	27	"	"	120		"	" " " "	"	"
Lot "1"	29	"	"	9	41	"	" " " "	"	"
E. ½ S. E. ¼, & S. ½ N. E. ¼, & lots 1, 5, & 7	3	"	25	285	17	"	" " " "	"	"
S. ½ N. E. f'l ¼, & N. W. f'l ¼ of N. E. f'l ¼, and W. ½ S. W. ¼, & N. f'l ½ of N. W. f'l ¼, & S. W. ¼ N. W. ¼.	5	"	"	356	93	"	" " " "	"	"
All of	7	"	"	652		"	" " " "	"	"
W. ½ of S. E. ¼	9	"	"	80		"	" " " "	"	"
Lots 4, 5, & 7	11	"	"	133	80	"	" " " "	"	"
W. ½ S. W. ¼, & N. E. ¼ S. W. ¼, & S. E. ¼ S. E. ¼	15	"	"	160		"	" " " "	"	"
E. ½ S. E. ¼, & E. ½ N. E. ¼, & N. W. ¼ N. E. ¼, & N. ½ of N. W. ¼, and S. W. ¼ of S. W. ¼	17	"	"	320		"	" " " "	"	"
All of	19	"	"	653	04	"	" " " "	"	"
S. ½, and W. ½ N. E. ¼, & S. W. ¼ N. W. ¼	21	"	"	440		"	" " " "	"	"
W. ½ N. W. ¼ & N. W. ¼ S. W. ¼	23	"	"	120		"	" " " "	"	"
S. W. ¼ of S. E. ¼	25	"	"	40		"	" " " "	"	"
N. W. ¼, and S. ½ S. W. ¼, and W. ½ S. E. ¼, and S. W. ¼ N. E. ¼	27	"	"	360		"	" " " "	"	"
E. ½ N. E. ¼, & N. W. ¼ N. E. ¼, & W. ½ N. W. ¼, & N. E. ¼ N. W. ¼, & S. ½ S. W. ¼	29	"	"	320		"	" " " "	"	"

Parts of section.	Section.	Township.	Range.	Acres.	100ths.	Date of sale.	To whom sold and patented.	Date of patent.	No. of patent.
N. E. ¼ & E. ½ N. W. f'l ¼, & N. E. ¼ S. E. ¼	31	80	25	280	00	May 14, '55	Des Moines Nav. & R. R. Co.	May 3, 1858	9
N. E. ¼, and W. ½ S. W. ¼	33	"	"	240		"	" " "	"	"
S. W. ¼, and W. ½ S. E. ¼, & W. ½ N. E. ¼	35	"	"	320		"	" " "	"	"
W. ½ S. W. ¼ and S. E. ¼ S. W. ¼	7	81	24	127	32	"	" " "	"	"
All of	19	"	"	642	08	"	" " "	"	"
S. W. ¼ of S. W. ¼	21	"	"	40		"	" " "	"	"
W. ½ of S. W. ¼	27	"	"	80		"	" " "	"	"
All of	29	"	"	640		"	" " "	"	"
S. E. ¼	31	81	24	160		"	" " "	"	"
All of	33	"	"	640		"	" " "	"	"
E. ½	3	"	25	309	49	"	" " "	"	"
S. W. f'l ¼, & N. E. ¼ & S. ¼ N. W. f'l ¼	7	"	"	425	62	"	" " "	"	"
E. ½ N. E. ¼, & S. W. ¼ of S. W. ¼	9	"	"	120		"	" " "	"	"
N. E. ¼	11	"	"	160		"	" " "	"	"
N. E. ¼	13	"	"	160		"	" " "	"	"
E. ½ N. W. ¼, & N. W. ¼ N. W. ¼, & N. W. ¼ S. W. ¼	15	"	"	160		"	" " "	"	"
W. ½ N. W. ¼, & S. E. ¼ N. W. ¼, & S. W. ¼ S. W. ¼, and N. E. ¼ S. W. ¼, & N. W. ¼ S. E. ¼	17	"	"	240		"	" " "	"	"
N. W ¼ of N. E. ¼	21	"	"	40		"	" " "	"	"
N. ½ of N. E. ¼	23	"	"	80		"	" " "	"	"
E. ½ N. E. ¼, & N. W. ¼ N. E. ¼, and E. ½ S. E. ¼, and S. W. ¼ S. E. ¼	25	"	"	240		"	" " "	"	"
S. W. ¼ and S. ½ S. E. ¼	31	"	"	257	75	"	" " "	"	"
Lots 7, 8, 9, and 13	33	"	"	138	04	"	" " "	"	"
All of	1	80	26	698	18	"	" " "	"	10
N. f'l ½, and S. E. ¼, and N. E. ¼ S. W. ¼	5	"	"	578	78	"	" " "	"	"
All of	3	"	"	701	92	"	" " "	"	"
E. ½, and N. W. ¼, and E. ½ S. W. ¼	9	"	"	560		"	" " "	"	"
W. ½ & S. ½ N. E. ¼, & E. ½ S. E. ¼, & S. W. ¼ S. E. ¼	11	"	"	520		"	" " "	"	"
E. ½, & S. W. ¼, & E. ½ N. W. ¼	13	"	"	560		"	" " "	"	"
N. ½, & N. ½ S. E. ¼	15	"	"	400		"	" " "	"	"
N. E. ¼ of N. E. ¼	23	80	26	40		"	" " "	"	"
N. E. ¼, & N. E. ¼ N. W. ¼, & E. ½ S. E. ¼	25	"	"	280		"	" " "	"	"
S. E. ¼ of S. E. ¼	1	81	"	40		"	" " "	"	"
N. W. ¼ of S. W. ¼	3	"	"	40		"	" " "	"	"
S. W. ¼ of N. W. ¼	5	"	"	40		"	" " "	"	"
All of	7	"	"	612	08	"	" " "	"	"
S. W. ¼ S. W. ¼, and S. E. ¼ S. E. ¼	9	"	"	80		"	" " "	"	"
N. W. ¼ N. E. ¼, and lot "1"	13	"	"	49	35	"	" " "	"	"
S. ½ of N. E. ¼	15	"	"	80		"	" " "	"	"

368 Parts of section.	Section.	Township.	Range.	Acres.	100ths.	Date of sale.	To whom sold & patented.	Date of patent.	No. of patent.
All of	17	81	26	640	00	May 14, '55	Des Moines Nav. & R. R. Co.	May 3, 1858	10
All of	19	"	"	612		"	" "	"	"
S. ½ of	21	"	"	320		"	" "	"	"
S. W. ¼ and W. ½ N. W. ¼ & S. ½, S. E. ¼	27	"	"	320		"	" "	"	"
All of	29	"	"	640		"	" "	"	"
N. E. ¼ and N. E. ¼, N. W. f'l ¼ and E. ½, S. E. ¼, & N. W. ¼, S. E. ¼	31	"	"	320		"	" "	"	"
All of	33	"	"	640		"	" "	"	"
W. ½ and S. E. ¼ & E. ½, N. E. ¼ & S. W. ¼, N. E. ¼	35	"	"	600		"	" "	"	"
All of	1	81	27	593	64	"	" "	"	"
N. E. ¼ and E. ½, S. E. ¼	11	"	"	240		"	" "	"	"
E. ½ and N. W. ¼ and E. ½, S. W. ¼	13	"	"	560		"	" "	"	"
E. ½ of N. E. ¼	25	"	"	80		"	" "	"	"
All of	5	82	25	635	18	"	" "	"	11
All of	7	"	"	656	86	"	" "	"	"
All of	17	"	"	640		"	" "	"	"
All of	29	"	"	640		"	" "	"	"
All of	31	"	"	663	10	"	" "	"	"
All of	33	"	"	640		"	" "	"	"
W. ½, N. W. ¼ & W. ½, S. W. ¼ & S. E. ¼, S. W. ¼	9	82	25	200		"	" "	"	"
W. ½ & W. ½, N. E. ¼ & S. E. ¼, N. E. ¼ & W. ½, S. E. ¼ & N. E. ¼, S. E. ¼	21	"	"	560		"	" "	"	"
W. ½, S. W. ¼ & S. W. ¼, N. W. ¼	27	"	"	120		"	" "	"	"
N. E. ¼, S. E. ¼ & S. W. ¼, S. E. ¼ & N. W. ¼, S. W. ¼	1	"	26	120		"	" "	"	"
S. E. ¼, N. E. ¼, & N. E. ¼, S. E. ¼ and W. ½, S. W. ¼ & S. W. ¼, N. W. ¼	3	"	"	200		"	" "	"	"
N. E. f'l ¼, N. W. f'l ¼, & S. W. ¼, N. W. ¼, and lots 5, 6, 7 & 8	5	"	"	202	97	"	" "	"	"
W. ½ and S. ½, N. E. ¼	7	"	"	360		"	" "	"	"
N. W. ¼, S. W. ¼ & lots 1, 2, 4 & 6	9	"	"	155	16	"	" "	"	"
S. E. ¼, N. W. ¼ & S. W. ¼, S. E. ¼ & N. E. ¼, N. E. ¼	11	"	"	120		"	" "	"	"
E. ½ & E. ½, N. W. ¼ & S. E. ¼, S. W. ¼	13	"	"	440		"	" "	"	"
Lots 1, 2, 3, 4 & 8	15	"	"	234	09	"	" "	"	"
W. ½, N. W. ¼ & S. E. ¼, N. W. ¼ & S. E. ¼, S. E. ¼	17	"	"	160		"	" "	"	"
S. ½ & E. ½, N. E. ¼ & W. ½, N. W. ¼ & N. E. ¼, N. W. ¼	19	"	"	493	24	"	" "	"	"
E. ½, N. E. ¼ & S. W. ¼, N. E. ¼ and S. ½, S. W. ¼ & N. W. ¼, N. W. ¼	21	"	"	240		"	" "	"	"
E. ½, N. E. ¼ & S. E. ¼, S. E. ¼ & E. ½, N. W. ¼	23	"	"	200		"	" "	"	"
S. W. ¼, N. W. ¼ & N. W. ¼, S. W. ¼ and lot "4"	27	"	"	100	35	"	" "	"	"

Parts of section.	Section.	Township.	Range.	Acres.	100ths.	Date of sale.	To whom sold & patented.	Date of patent.	No. of patent.
N. W. ¼ & W. ½, N. E. ¼ & N. E. ¼, N. E. ¼ & S. ½, S. E. ¼ & E. ½, S. W. ¼ & S. W. ¼, S. W. ¼	29	82	26	480	00	May 14, '55	Des Moines Nav. & R. R. Co.	May 3, 1858	11
W. f'l ½ & S. E. ¼ and W. ½, N. E. ¼	31	"	"	541	60	"	" "	"	"
S. W. ¼ & S. ½, N. E. ¼ & N. W. ¼, S. E. ¼	33	"	"	280		"	" "	"	"
All of	1	"	27	533	42	"	" "	"	"
All of	13	"	"	640		"	" "	"	"
E. ½ and S. W. ¼	25	"	"	480		"	" "	"	"
E. ½, S. W. ¼ & S. W. ¼, S. E. ¼	33	79	22	120		May 6, '56	" "	"	9
N. ½, N. W. ¼	21	"	23	80		"	" "	"	"
N. f'l ½ of	1	"	25	364	80	"	" "	"	"
All of	3	"	"	681	70	"	" "	"	"
N. f'l ¼, N. E. ¼	5	"	"	99	91	"	" "	"	"
E. ½ & E. ½, S. W. ¼ & E. ½, N. W. ¼ & N. W. ¼, N. W. ¼	9	"	"	520		"	" "	"	"
All of	11	"	"	640		"	" "	"	"
N. E. ¼, N. E. ¼ & E. ½, S. W. ¼	13	"	"	120		"	" "	"	"
All of	15	"	"	640		"	" "	"	"
E. ½, N. E. ¼ & E. ½, S. E. ¼	21	"	"	160		"	" "	"	"
N. ½, S. E. ¼ & S. E. ¼, S. E. ¼ & N. E. ¼, S. W. ¼	9	81	25	160		"	" "	"	"
All of	3	82	27	639	68	"	" "	"	11
N. E. ¼ and E. ½, S. E. ¼	9	"	"	240		"	" "	"	"
All of	11	"	"	640		"	" "	"	"
All of	15	"	"	640		"	" "	"	"
All of	23	"	"	640		"	" "	"	"
N. E. ¼, N. E. ¼	27	"	"	40		"	" "	"	"
N. W. ¼	25	"	"	160		"	" "	"	"
E. ½ & E. ½, S. W. ¼ & E. ½, N. W. ¼	35	"	"	480		"	" "	"	"
W. ½, N. E. ¼ & W. ½, S. E. ¼ & W. ½	7	83	25	467	98	"	" "	"	"
All of	19	"	"	653	08	"	" "	"	"
S. W. ¼ & W. ½, N. W. ¼	29	"	"	240		"	" "	"	"
All of	31	"	"	665	52	"	" "	"	"
E. ½, N. E. ¼ & E. ½, S. E. ¼	1	83	26	130	40	"	" "	"	"
S. W. ¼, S. E. ¼	5	"	"	40		"	" "	"	"
N. E. ¼, N. E. ¼ & S. ½, N. E. ¼ and N. E. ¼, S. E. ¼ & S. ½, S. E. ¼	11	"	"	240		"	" "	"	"
All of	13	"	"	640		"	" "	"	"
S. ½, N. W. ¼	15	"	"	80		"	" "	"	"
S. E. ¼, N. E. ¼ & N. E. ¼, N. W. ¼, and lots 1, 3, 4, 6 and 7	17	"	"	294	43	"	" "	"	"
S. f'l ½ of	19	"	"	308	24	"	" "	"	"
N. E. ¼, S. W. ¼ & E. ½, N. W. ¼, & lot "1"	21	"	"	155	10	"	" "	"	"
N. E. ¼, N. E. ¼	23	"	"	40		"	" "	"	"

Parts of section.	Section.	Township.	Range.	Acres.	100ths.	Date of sale.	To whom sold & patented.	Date of patent.	No. of patent.
S. W. ¼ S. W. ¼, & W. ½ N. W. ¼, & lots 1, 2, 3, 5, 6, & 7	29	83	26	320	45	May 6, '56	Des Moines Nav. & R. R. Co.	May 3, 1858	11
E. ½ and S. W. ¼ & S. W. ¼ N. W. ¼	25	"	"	520		"	"	"	"
N. E. ¼ N. E. ¼	27	"	"	40		"	"	"	"
N. W. ¼ S. E. ¼ & S. W. f'l ¼ & W. f'l ¼ N. W. ¼	31	"	"	260		"	"	"	"
W. ½ N. E. ¼ & N. W. ¼ S. W. ¼, & lots 1, 3, 4, 5, & 7	33	"	"	259	12	"	"	"	"
Lots 5 & 6	1	83	27	68	10	"	"	"	"
All of	3	"	"	528	04	"	"	"	"
All of	5	"	"	525	24	"	"	"	"
All of	7	"	"	645	08	"	"	"	"
All of	9	"	"	640		"	"	"	"
N. ½ N. E. ¼ & S. E. ¼ S. E. ¼ & S. W. ¼	11	"	"	280		"	"	"	"
N. ½ N. E. ¼ & S. E. ¼ N. E. ¼ & S. E. ¼ & S. ½ S. W. ¼ & N. W. ¼	13	"	"	520		"	"	"	"
All of	15	"	"	640		"	"	"	"
All of	17	"	"	640		"	"	"	"
All of	21	"	"	640		"	"	"	"
All of	23	"	"	640		"	"	"	"
N. W. ¼ N. E. ¼ & S. ½ N. E. ¼ & S. E. ¼ & S. ½ S. W. ¼	25	"	"	360		"	"	"	"
All of	27	"	"	640		"	"	"	"
E. ½ of	33	"	"	320		"	"	"	"
All of	35	"	"	640		"	"	"	"
E. f'l ¼ & N. E. ¼ S. W. ¼ & E. f'l ¼ N. W. ¼	1	83	28	352	25	"	"	"	"
S. W. f'l ¼ S. W. f'l ¼	31	84	25	42	48	"	"	"	"
All of	3	"	26	713	70	"	"	"	"
S. ½ S. E. ¼ & S. W. ¼ N. W. ¼	5	"	"	120		"	"	"	"
S. W. ¼ N. E. ¼ & N. ½ S. E. ¼ & S. W. ¼ S. E. ¼ & E. ½ S. W. ¼ & S. E. ¼ N. W. ¼, & lots 1, 2, 3, 4, & 5.	7	84	26	403	01	"	"	"	"
S. E. ¼ N. W. ¼ & N. ½ N. W. ¼	9	"	"	120		"	"	"	"
All of	11	"	"	640		"	"	"	"
E. ½ of	15	"	"	320		"	"	"	"
N. W. ¼ N. E. ¼	17	"	"	40		"	"	"	"
N. W. ¼ N. E. ¼	19	"	"	40		"	"	"	"
N. ½ N. E. ¼ & S. W. ¼ N. E. ¼ & N. ½ N. W. ¼	23	"	"	200		"	"	"	"
W. ½ S. W. ¼	25	"	"	80		"	"	"	"
S. W. ¼ N. E. ¼ & N. ½ S. E. ¼ & S. W. ¼ S. E. ¼ & N. f'l ½ N. W. ¼, & lots 2 & 3	31	"	"	324	10	"	"	"	"
W. ½ S. W. ¼	33	"	"	80		"	"	"	"

Parts of section.	Section.	Township.	Range.	Acres.	100ths.	Date of sale.	To whom sold & patented.	Date of patent.	No. of patent.
N. E. ¼ & N. ½ S. E. ¼ & N. E. ¼ S. W. ¼ & S. E. ¼ N. W. ¼ & N ½ N. W. ¼	35	84	26	400	00	May 6, '56	Des Moines Nav. & R. R. Co.	May 3, 1858	11
S. W. ¼ & W. f'l ½ N. W. ¼, and lots 4, 5, 6, 7, and "8"	1	"	27	524	23	"	" "	"	"
N. f'l ½ & S. E. ¼ & S. W. ¼ S. W. ¼ & N. ½ S. W. ¼	3	"	"	670	78	"	" "	"	"
All of	5	"	"	706	24	"	" "	"	"
All of	7	"	"	634	84	"	" "	"	"
All of	9	"	"	640		"	" "	"	"
W. ½ N. E. ¼ & S. ½ S. E. ¼ & N. W. ¼ S. E. ¼ & S. ½ S. W. ¼ & N. ½ N. W. ¼ & S. W. ¼ N. W. ¼.	11	"	"	400		"	" "	"	"
N. W. ¼ N. W. ¼	13	"	"	40		"	" "	"	"
N. ½ & N. ½ S. E. ¼ & S. W. ¼ S. E. ¼ & N. ½ S. W. ¼ & S. W. ¼ S. W. ¼	15	"	"	560		"	" "	"	"
All of	17	"	"	640		"	" "	"	"
All of	19	"	"	643	84	"	" "	"	"
N. ½ N. E. ¼ & S. W. ¼ N. E. ¼ & N. W. ¼ S. E. ¼ & S. ½ S. E. ¼ & S. E. ¼ S. W. ¼ & N. ½ S. W. ¼ & N. W. ¼.	21	"	"	520		"	" "	"	"
Lot "8"	23	"	"	21	16	"	" "	"	"
S. E. ¼ S. E. ¼ & N. W. ¼ S. W. ¼, & lots 1 & 3	25	"	"	158	04	"	" "	"	"
W. ½ N. E. ¼ & W. ½ S. E. ¼ and S. W. ¼ & S. ½ N. W. ¼ & N. W. ¼ N. W. ¼	27	"	"	440		"	" "	"	"
All of	29	"	"	640		"	" "	"	"
All of	31	"	"	645	20	"	" "	"	"
All of	33	"	"	640		"	" "	"	"
S. W. ¼ & S. W. ¼ N. W. ¼, & lots 4, 5, 6, & 7	35	"	"	337	97	"	" "	"	"
All of	1	84	28	696	26	"	" "	"	"
E. ½ N. E. ¼	11	"	"	80		"	" "	"	"
E. ½ & E. ½ S. W. ¼ & E. ½ N. W. ¼	13	"	"	480		"	" "	"	"
All of	25	"	"	640		"	" "	"	"
S. W. ¼ & S. ½ N. W. ¼ & N. W. ¼ N. W. ¼	3	85	26	277	28	"	" "	"	"
All of	5	"	"	629	54	"	" "	"	"
All of	7	"	"	611	98	"	" "	"	"
All of	9	"	"	640		"	" "	"	"
N. W. ¼ S. E. ¼ & S. ½ S. E. ¼ & S. W. ¼ N. E. ¼ & W. ½	15	"	"	480		"	" "	"	"
N. ½ S. E. ¼ & S. E. ¼ S. W. ¼ & N. ½ S. W. ¼	17	"	"	600		"	" "	"	"
W. ½ N. E. ¼ & W. ½ S. E. ¼ and S. W. f'l ¼ & W. f'l ½ N. W. ¼	19	"	"	376	30	"	" "	"	"
All of	21	"	"	640		"	" "	"	"
S. W. ¼ & W. ½ N. W. ¼	23	"	"	240		"	" "	"	"
All of	27	"	"	640		"	" "	"	"
S. ½ S. W. ½ & N. W. ¼ S. W. ¼	29	"	"	120		"	" "	"	"

372 Parts of section.	Section.	Township.	Range.	Acres.	100ths.	Date of sale.	To whom sold & patented.	Date of patent.	No. of patent.
N. E. ¼ N. E. ¼, & N. ½ S. E. ¼, and N. E. ¼ S. W. ¼, and W. ½ S. W. ¼, & N. E. ¼ N. W. ¼	31	85	26	269	62	May 6, 1856	Des Moines Nav. & R. R. Co.	May 3, 1858	11
N. E. ¼ S. E. ¼, & S. W. ¼ S. W. ¼, & N. W. ¼ N. W. ¼	33	"	"	120		"	" "	"	"
W. ½ N. E. ¼, & W. ½ S. E. ¼, & W. ½	35	"	"	480	28	"	" "	"	"
N. f'l ½, & W. ½ S. E. ¼, & W. ½ S. W. ¼	1	"	27	467	58	"	" "	"	"
N. E. f'l ¼ N. E ¼, & S. W. ¼ S. W. ¼, & lots 1, 2, 3, 4, 5, 6, & 8	3	"	"	402	94	"	" "	"	"
All of	5	"	"	643	58	"	" "	"	"
All of	7	"	"	638	60	"	" "	"	"
N. W. ¼ N. E. ¼, & S. ½ N. E. ¼, & S. ½ N. W. ¼	9	"	"	600		"	" "	"	"
E. ½ N. E. ¼, & E. ½ S. E. ¼, & lots 1, 2, & 4	11	"	"	317	33	"	" "	"	"
E. ½ S. E. ¼, & S. W. ¼ S. E. ¼, & W. ½	13	"	"	440		"	" "	"	"
W. ½ S. E. ¼, & S. W. ¼, & S. E. ¼ N. W. ¼, & W. ½ N. W. ¼, & lots 1, 3, & 4	15	"	"	525	51	"	" "	"	"
All of	17	"	"	640		"	" "	"	"
All of	19	"	"	644	80	"	" "	"	"
All of	21	"	"	640		"	" "	"	"
W. ½ N. E. ¼, & S. ½, and S. E. ¼ N. W. ¼, & lots 1, 2, & 3	23	"	"	537	57	"	" "	"	"
N. W. ¼ N. E. ¼, & S. ½ N. E. ¼, & N. E. ¼ S. E. ¼, & S. ½ S. E. ¼, & S. W. ¼ S. W. ¼, & N. ½ S. W. ¼	25	"	"	360		"	" "	"	"
S. E. ¼ S. E. ¼, & N. W. ¼ S. W. ¼, & N. E. ¼ N. W. ¼, & W. ½ N. W. ¼, & lots 1, 2, 3, 4, 6, & 8	27	"	"	456	76	"	" "	"	"
All of	29	"	"	640		"	" "	"	"
All of	31	"	"	645	40	"	" "	"	"
All of	33	"	"	640		"	" "	"	"
N. ½ N. E. ¼, & N. W. ¼ S. E. ¼, & W. ½, & lots 1, 2, & 3	35	"	"	541	60	"	" "	"	"
All of	1	85	28	645	60	"	" "	"	"
E. ½ of	11	"	"	320		"	" "	"	"
All of	13	"	"	640		"	" "	"	"
E. ½ N. E. ¼, & E. ½ S. E. ¼, & S. W. ¼ S. E. ¼	23	"	"	200		"	" "	"	"
All of	25	"	"	640		"	" "	"	12
E. ½ of	35	"	"	320		"	" "	"	"
All of	3	86	26	625	92	"	" "	"	"
All of	5	"	"	624	86	"	" "	"	"
All of	7	"	"	606	82	"	" "	"	"
All of	9	"	"	640		"	" "	"	"
N. ½ N. E. ¼, & S. W. ¼ N. E. ¼, & W. ½ S. E. ¼, & W. ½	11	"	"	520		"	" "	"	"
All of	15	"	"	640	00	"	" "	"	"

Parts of section.	Section.	Township.	Range.	Acres.	100ths.	Date of sale.	To whom sold & patented.	Date of patent.	No. of patent.
All of	17	86	26	640	00	May 6, '56	Des Moines Nav. & R. R. Co.	May 3, '58	11
All of	19	"	"	607	76	"	"	"	"
All of	21	"	"	640		"	"	"	"
All of	29	"	"	640		"	"	"	"
All of	31	"	"	607	84	"	"	"	"
All of	33	"	"	640		"	"	"	"
Lots 1, 2, 3, 4, & 5, & N. W. ¼ S. W. ¼, & N. W. fl ¼, and N. W. ¼ N. E¼	1	"	27	567	95	"	"	"	"
All of	3	"	"	417		"	"	"	13
All of	5	"	"	627	11	"	"	"	"
All of	7	"	"	629	58	"	"	"	"
All of	9	"	"	640	60	"	"	"	"
All of	11	"	"	640		"	"	"	"
N½ N. E. ¼, & S. W. ¼ N. E. ¼, & S. E. ¼, and S. ¼ S. W. ¼, & S. E. ¼ N. W. ¼, and lots 1, 2, & 3, & N. W. ¼ S. W. ¼.	13	"	"	640		"	"	"	"
All of	15	"	"	550	65	"	"	"	"
All of	17	"	"	640		"	"	"	"
Lots 1, 2, 5, 6, 7, & 8, & S. E. ¼ S. W. ¼, & W. ¼ S. W. ¼, & N. W¼	19	"	"	632	60	"	"	"	"
N½ S. E. ¼, & S. E. ¼ S. W¼, N. ¼ S. W. ¼	21	"	"	536	50	"	"	"	"
All of	23	"	"	6	0	"	"	"	"
N. W. ¼ N. E. ¼, & N. E. ¼ S. E. ¼, W. ¼ S. W. ¼, lots 2, 3, 4, 5, 6, 7, and 8	25	"	"	640		"	"	"	"
All of	27	"	"	479	98	"	"	"	"
All of	29	"	"	640		"	"	"	"
All of	31	"	"	634	72	"	"	"	"
N. E. ¼ & S. W. ¼ S. E. ¼, & S. W. ¼ & W. ¼ N. W. ¼	33	"	"	640		"	"	"	"
All of	35	"	"	440		"	"	"	"
N. ¼ & S. E. ¼, & N. E. ¼ S. W. ¼	1	"	28	627	88	"	"	"	"
All of	3	"	"	503	02	"	"	"	"
All of	11	"	"	640		"	"	"	"
E. ½ N. E. ¼, & E. ½ S. E. ¼	13	"	"	640		"	"	"	"
All of	15	"	"	160		"	"	"	"
All of	23	"	"	640		"	"	"	"
E½ N. E. ¼, and E½ S. E. ¼	25	"	"	640		"	"	"	"
All of	27	"	"	160		"	"	"	"
All of	35	"	"	640		"	"	"	"
	5	87	26	663	98	"	"	"	"

374 Parts of section.	Section.	Township.	Range.	Acres.	100ths.	Date of sale.	To whom sold & patented.	Date of patent.	No. of patent.
All of	7	87	26	597	92	May 6, '56	Des Moines Nav. & R. R. Co.	May 3, '58	12
N. ½ & N. ½ S. E. ¼ & S. W. ¼	9	"	"	560		"	"	"	"
N. ½ N. E. ¼, & S. W. ¼ N. E. ¼, & S. ½, & N. ½ N. W. ¼, & S. W. ¼ N. W. ¼	15	"	"	560		"	"	"	"
N. E. ¼ N. E. ¼, & S. ½ N. E. ¼, and N. ½ S. E. ¼, & S. W. ¼ S. W. ¼, and N. E. ¼ S. W. ¼, & E. ½ N. W. ¼	17	"	"	360		"	"	"	"
All of	19	"	"	609	18	"	"	"	"
N. ½ & S. E. ¼, & S. W. ¼ S. W. ¼, & N. ½ S. W. ¼	21	"	"	600		"	"	"	"
W. ½ S. E. ¼ & W. ½	23	"	"	400		"	"	"	"
All of	27	"	"	640		"	"	"	"
N. ½ S. E. ¼, & S. E. ¼ S. W. ¼, & N. ½ S. W. ¼	29	"	"	600		"	"	"	"
All of	31	"	"	605	92	"	"	"	"
All of	33	"	"	640		"	"	"	"
All of	35	"	"	640		"	"	"	"
N. ½ N. E. ¼, & S. ½ & N. ½ N. W. ¼	1	87	27	506	44	"	"	"	13
All of	3	"	"	673	90	"	"	"	"
All of	5	"	"	681	60	"	"	"	"
All of	7	"	"	604	30	"	"	"	"
All of	9	"	"	640		"	"	"	"
E. ½ & E. ½ S. W. ¼, & N. ½ N. W. ¼	11	"	"	480		"	"	"	"
All of	13	"	"	620		"	"	"	"
E. ½ N. E. ¼ & N. W. ¼ S. W. ¼, & lots 1, 2, 3, 4, 5, & 6	15	"	"	404	50	"	"	"	"
All of	17	"	"	611	25	"	"	"	"
All of	19	"	"	618	40	"	"	"	"
All of	21	"	"	587	82	"	"	"	"
N. E. ¼ & E. ½ S. E. ¼, & S. W. ¼ S. W. ¼ N. E. ¼ N. W. ¼, & lots 1, 4, 5, 6, 7, & 8	23	"	"	517	40	"	"	"	"
All of	25	"	"	604	25	"	"	"	"
All of	27	"	"	640		"	"	"	"
All of	29	"	"	640		"	"	"	"
All of	31	"	"	626	44	"	"	"	"
All of	33	"	"	640		"	"	"	"
All of	35	"	"	640		"	"	"	"
N. E. ¼ N. E. ¼, & W. ½ S. W. ¼, & lots 1, 2, 3, 4, 5, 6, 7, 9, & 10	1	87	28	529	23	"	"	"	"
All of	3	"	"	678	28	"	"	"	"
All of	5	"	"	673	98	"	"	"	"
All of	7	"	"	621	98	"	"	"	"

Parts of section.	Section.	Township.	Range.	Acres.	100ths.	Date of sale.	To whom sold & patented.	Date of patent.	No. of patent.
All of	9	87	28	640	00	May 6, '56	Des Moines Nav. & R. R. Co.	May 3, '58	13
All of	11	"	"	640		"	" "	"	"
All of	13	"	"	640		"	" "	"	"
All of	15	"	"	640		"	" "	"	"
All of	17	"	"	640		"	" "	"	"
All of	21	"	"	640		"	" "	"	"
All of	23	"	"	640		"	" "	"	"
All of	25	"	"	640		"	" "	"	"
All of	27	"	"	640		"	" "	"	"
N. W. ¼ N. E. ¼, & S. ½ N. E. ¼, & N. E. ¼ S. E. ¼	29	"	"	160		"	" "	"	"
N. E. ¼ and N. ½ S. E. ¼, and S. E. ¼ S. E. ¼ N. E. ¼ N. W. ¼	33	"	"	320		"	" "	"	"
All of	35	"	"	640		"	" "	"	"
S. W. ¼ of S. W. ¼	29	88	26	40		"	" "	"	12
All of	31	"	"	580	68	"	" "	"	"
W. ½ S. W. ¼, & S. W. ¼ N. W. ¼	3	"	27	120		"	" "	"	13
All of	5	"	"	701	30	"	" "	"	"
All of	7	"	"	598	86	"	" "	"	"
All of	9	"	"	640		"	" "	"	"
W. ½ N. E. ¼, & W. ½ S. E. ¼ & W. ½	15	"	"	480		"	" "	"	"
All of	17	"	"	640		"	" "	"	"
All of	19	"	"	599	10	"	" "	"	"
All of	21	"	"	640		"	" "	"	"
S. ½ N. E. ¼ & S. ½, & S. ½ N. W. ¼	23	"	"	480		"	" "	"	"
All of	25	"	"	640		"	" "	"	"
All of	27	"	"	640		"	" "	"	"
All of	29	"	"	640		"	" "	"	"
E. ½ & N. E. ¼ S. W. ¼, and W. ½ S. W. ¼ & E. ½ N. W. ¼	31	"	"	503	36	"	" "	"	"
All of	33	"	"	640		"	" "	"	"
All of	35	"	"	640		"	" "	"	"
All of	1	88	28	709	10	"	" "	"	"
W. ½ and E. ½ S. E. ¼ & N. W. ¼ S. E. ¼ & lots 1, 2, & 3	5	"	"	653	88	"	" "	"	"
All of	7	"	"	628		"	" "	"	"
S. ½ of	9	"	"	320		"	" "	"	"
S. W. ¼ S. E. ¼ & S. ½ S. W. ¼ and N. W. ¼ N. W. ¼, and lot 7	15	"	"	205	55	"	" "	"	"
N. E. ¼ & W. ½ & S. W. ¼	17	"	"	240		"	" "	"	"
Lots 1, 2, 3, 5, & 7, & S. E. ¼ N. E. ¼ & N. ½ S. E. ¼	23	"	"	342	04	"	" "	"	"

376 Parts of section.	Section.	Township.	Range.	Acres.	100ths.	Date of Sale.	To whom sold & patented.	Date of patent.	No. of patent.
All of	1	87	29	712	58	May 6, '56	Des Moines Nav. & R. R. Co.	May 3, '58	14
N. E. fr. ¼ of N. E. ¼	3	"	"			"	"	"	"
N. ½ S. E. ¼	3	88	28			"	"	"	"
All of	11	"	"			"	"	"	"
All of	13	"	"			"	"	"	"
All of	19	"	"			"	"	"	"
All of	21	"	"			"	"	"	"
Lot "6"	23	"	"			"	"	"	"
E. ½ & E. ½ S. W. ¼	25	"	"	6,546	59	"	"	"	"
S. ½ & S. ½ N. W. ¼	27	"	"			"	"	"	"
N. W. ¼ N. W. ¼, & lots 2, 3, & 4	27	"	"			"	"	"	"
All of	29	"	"			"	"	"	"
All of	31	"	"			"	"	"	"
All of	33	"	"			"	"	"	"
N. E. ¼ S. E. ¼ & W. ½ S. W. ¼ & W. ½ N. W. ¼, & lots 1, 2, 3, 4, 5, 6, 7, & 8	35	"	"			"	"	"	"
All of	1	88	29			"	"	"	"
All of	3	"	"			"	"	"	"
All of	5	"	"			"	"	"	"
All of	7	"	"			"	"	"	"
All of	9	"	"			"	"	"	"
All of	11	"	"			"	"	"	"
All of	13	"	"			"	"	"	"
All of	15	"	"	9,241	87	"	"	"	"
All of	17	"	"			"	"	"	"
All of	21	"	"			"	"	"	"
All of	23	"	"			"	"	"	"
All of	25	"	"			"	"	"	"
All of	27	"	"			"	"	"	"
N. ½ N. E. ¼	29	"	"			"	"	"	"
All of	35	"	"			"	"	"	"
E. ½ N. E. ¼ & E. ½ S. E. ¼	1	88	30	186	62	"	"	"	"
W. ½ N. E. ¼ & S. E. ¼ & W. f'l ½	19	89	27			"	"	"	"
S. ½ S. W. ¼	21	"	"			"	"	"	"
N. W. ¼ S. E. ¼ & S. ½ S. E. ¼ & S. W. ¼ & S. ½ N. W. ¼	27	"	"			"	"	"	"
All of	29	"	"	3,327	64	"	"	"	"
All of	31	"	"			"	"	"	"
All of	33	"	"			"	"	"	"
W. ½ S. E. ¼ & S. W. ¼ & S. ½ N. W. ¼ & N. W. ¼ N. W. ¼	35	"	"			"	"	"	"

Parts of section.	Section.	Township.	Range.	Acres.	100ths.	Date of sale.	To whom sold & patented.	Date of patent.	No. of patents.
S. W. ¼ N. E. ¼ & W. ½ S. E. ¼ & W. ½	1	89	28			May 6, '56	Des Moines Nav. & R. R. Co.	May 3, '58	14
All of	3	"	"			"	" "	"	"
All of	5	"	"			"	" "	"	"
N. E. ¼ N. E. ¼, & lots 1, 2, 3, 4, 5, & 6	7	"	"			"	" "	"	"
All of	9	"	"			"	" "	"	"
All of	11	"	"			"	" "	"	"
W. ½ N. E. ¼ & N. W. ¼ S. E. ¼ & S. ½ S. E. ¼ and W. ½	13	"	"			"	" "	"	"
All of	15	"	"			"	" "	"	"
E. ½ & N. E. ¼ S. W. ¼ & E. ½ N. W. ¼	17	"	"	8, 883	61	"	" "	"	"
All of	21	"	"			"	" "	"	"
All of	23	"	"			"	" "	"	"
All of	25	"	"			"	" "	"	"
All of	27	"	"			"	" "	"	"
S. ½ N. E. ¼ & S. E. ¼	29	"	"			"	" "	"	"
Lot No. "1"	31	"	"			"	" "	"	"
All of	33	"	"			"	" "	"	"
All of	35	"	"			"	" "	"	"
S. E. ¼ S. E. ¼, & lots 1, 2, & 3	1	"	29	149	02	"	" "	"	"
W. ½ N. E. ¼ & W. ½ S. E. ¼ & W. ½	1	90	28			"	" "	"	"
All of	3	"	"			"	" "	"	"
All of	5	"	"			"	" "	"	"
N. ½ & S. E. ¼ & E. ½ S. W. ¼ & N. W. ¼ S. W. ¼	7	"	"			"	" "	"	"
All of	9	"	"			"	" "	"	"
All of	11	"	"			"	" "	"	"
W. ½ N. W. ¼	13	"	"			"	" "	"	"
All of	15	"	"			"	" "	"	"
All of	17	"	"			"	" "	"	"
All of	19	"	"	10, 081	66	"	" "	"	"
All of	21	"	"			"	" "	"	"
All of	23	"	"			"	" "	"	"
W. ½ S. W. ¼ & S. W. ¼ N. W. ¼	25	"	"			"	" "	"	"
All of	27	"	"			"	" "	"	"
All of	29	"	"			"	" "	"	"
E. ½, and lots 1, 2, 3, & 4	31	"	"			"	" "	"	"
All of	33	"	"			"	" "	"	"
All of	35	"	"			"	" "	"	"
Lot "1"	1	90	29			"	" "	"	"
S. E. ¼ N. E. ¼ & S. E. ¼, & lots 1, 2, 3, & 4	13	"	"	484	93	"	" "	"	"
Lots 1 & 2	25	"	"			"	" "	"	"

Parts of section.	Section.	Township.	Range.	Acres.	100ths.	Date of sale.	To whom sold & patented.	Date of patent.	No. of patent.
S. W. ¼, N. E. ¼ & N. W. ¼ & S. ½, & lots 1 & 2	5	91	27	1,365	21	May 6, '56.	Des Moines Nav. & R. R.Co.	May 3, '58.	14
All of	7	"	"			"	" "	"	"
W. ½ N. W. ¼	31	"	"			"	" "	"	"
All of	1	91	28			"	" "	"	"
All of	3	"	"			"	" "	"	"
All of	5	"	"			"	" "	"	"
Lot 1 & 2	7	"	"			"	" "	"	"
All of	9	"	"			"	" "	"	"
All of	11	"	"			"	" "	"	"
All of	13	"	"			"	" "	"	"
All of	15	"	"			"	" "	"	"
E. ½ N. W. ¼ & S. W. ¼ & lots 1 & 2	17	"	"			"	" "	"	"
Lots 1, 2, 3 & 4	19	"	"	9,797	87	"	" "	"	"
All of	21	"	"			"	" "	"	"
All of	23	"	"			"	" "	"	"
All of	25	"	"			"	" "	"	"
All of	27	"	"			"	" "	"	"
E. ½ & E. ½ N. W. ¼ & N. E. ¼ S. W. ¼, & lots 1, 2, 3 & 4	29	"	"			"	" "	"	"
Lot 1	31	"	"			"	" "	"	"
All of	33	"	"			"	" "	"	"
All of	35	"	"			"	" "	"	"
All of	5	92	27			"	" "	"	"
All of	7	"	"			"	" "	"	"
All of	9	"	"			"	" "	"	"
W. ½ N. W. ¼ of	15	"	"			"	" "	"	"
All of	17	"	"	5,300	13	"	" "	"	"
All of	19	"	"			"	" "	"	"
All of	21	"	"			"	" "	"	"
All of	29	"	"			"	" "	"	"
All of	31	"	"			"	" "	"	"

Parts of section.	Section.	Township.	Range.	Acres.	100ths.	Date of sale.	To whom sold and patented.	Date of patent.	No. of patent.
All of	1	92	28			May 6, '56	Des Moines Nav. & R. R. Co.	May 3, '58	14
N. E. ¼ & N. ½, N. W. ¼ & S. E. ¼, N. W. ¼, E. ½ S. E. ¼ & N. W. ¼, S. W. ¼ & lots 1, 2, & 3	3	"	"			"	" "	"	"
N. ½ & S. E. ¼ & lots 1 & 2	11	"	"			"	" "	"	"
All of	13	"	"			"	" "	"	"
Lots 1 & 2	15	"	"			"	" "	"	"
All of	23	"	"	5,450	44	"	" "	"	"
All of	25	"	"			"	" "	"	"
S. E. ¼ N. E. ¼ & S. E. ¼ & lots 1, 2, 3 & 4	27	"	"			"	" "	"	"
Lot 1	31	"	"			"	" "	"	"
S. ½ N. E. ¼ & S. ½ & lots 1, 2, 3, & 4	33	"	"			"	" "	"	"
All of	35	"	"			"	" "	"	"
Lot 3	11	80	25		04	"	" "	"	"
S. W. ¼ of N. W. ¼	29	"	"	40		May 14, '55	" "	"	9
N. W. ¼ N. W. ¼	31	"	"	43	08	"	" "	"	"
S E. ¼ S. E. ¼	13	78	25	40		May 6, '56	" "	"	"
Lots 6, 7, & 8	13	"	"	151	55	"	" "	"	"
E. ½ S. E. ¼	23	"	"	80		"	" "	"	"
N. ½ N. W. ¼	25	"	"	80		"	" "	"	"
N. W. ¼ N. E. ¼	25	"	"	40		"	" "	"	"
N. ½ S. E. ¼ & S. E. ¼ S. E. ¼ & N. E. ¼ S. W. ¼	25	"	"	120		"	" "	"	"
	25	"	"	40		"	" "	"	"

This indenture, made this 18th day of May, one thousand eight hundred and fifty-eight, by and between the State of Iowa, party of the first part, and the Des Moines Navigation and Railroad Company, parties of the second part, witnesseth: That the said party of the first part, for and in consideration of one dollar, paid by the parties of the second part; and in pursuance of the contracts and agreements between the State of Iowa and the said Des Moines Navigation and Railroad Company for the improvement of the navigation of the Des Moines River, in the State of Iowa; and in pursuance of a joint resolution of the general assembly of the State of Iowa, approved the 22d day of March, 1858, does hereby sell, grant, bargain, and convey to the said Des Moines Navigation and Railroad Company the following described lands, to wit: All lands granted by an act of Congress approved August 8, 1846, to the then Territory of Iowa, to aid in the improvement of the Des Moines River, which have been approved and certified to the State of Iowa by the general government, saving and excepting all lands sold or
380 conveyed, or agreed to be sold or conveyed, by the State of Iowa by its officers and agents prior to the 23d day of December, 1853, under said grant; and said company or its assigns shall have right to all of said lands so herein granted to them, as fully as the State of Iowa could have under or by virtue of said grant, or in any manner whatsoever, with full power to settle all errors, false locations, omissions, or claims in reference to the same, and all pay or compensation therefore by the general government, but at the costs and charges of said company, and the State to hold all the balance of said lands, and all rights, powers, and privileges under and by virtue of said grant, entirely released from any claim by or through said company. And it is understood that among the lands excepted and not granted by the State to the said company are 25,487.87 acres, lying immediately above Raccoon Forks, supposed to have been sold by the general government but claimed by the State of Iowa.

To have and to hold the above-described lands, and such and every parcel thereof, with all the rights, priviledges, immunities, and appurtenances of whatever nature thereunto belonging or appertaining unto the said Des Moines Navigation and Railroad Company, their successors and assigns forever, in fee simple.

In testimony whereof, I, Ralph P. Lowe, governor of the State of Iowa, have caused the great seal of the State of Iowa to be hereunto affixed.

Given under my hand at the city of Des Moines, the day and year first above written, and of the State of Iowa.

[L. S.] RALPH P. LOWE.

By the governor:

ELIJAH SELLS,
Secretary of State,
By JNO. M. DAVIS, *Deputy.*

This is to certify that the foregoing deed was received from the governor June 10, 1858, and recorded in Des Moines River Records, Book "A," pages 45 & 46, June 18, 1852.

T. S. PERRIN,
Register of State Land Office.
By D. S. WARREN, *Deputy.*

381 STATE LAND OFFICE,
Des Moines, July 22, 1862.

I, A. B. Miller, register of the State land office for the State of Iowa, do hereby certify that the within and foregoing lists are true and exact

exemplifications of the sales and records of patents made out for the "Des Moines River grant," or land certified to the State of Iowa under the act of August 8th, 1846, for the improvement of the navigation of the Des Moines River, as shown by the records and plats on file in this office, giving a description of the lands sold, the amount paid therefore, date of sale, "name of purchaser," to whom patented, date and No. of patent—except a part of that sold to the Des Moines Navigation and Railroad Company, the date of which sale is not in this office, but the dates of the patents are shown; and the consideration for this latter class of lands was work upon the improvement of the Des Moines River, upon which the navigation company took lands at $\$1\frac{25}{100}$ per acre. These lists include all lands heretofore certified to the State under the act of 1846, above the mouth of the Raccoon Forks, and includes a copy of a deed made out to the "Des Moines Navigation and Railroad Company," for all of their lands to which the State of Iowa had any title.

In testimony whereof, I have hereunto set my hand and date afore written.

A. B. MILLER, *Register.*

EXECUTIVE OFFICE, IOWA,
Des Moines, July 22, 1862.

I, Samuel J. Kirkwood, governor of the State of Iowa, do hereby certify that the above-named A. B. Miller was duly elected and qualified register of the State land office; that he is by the laws of the State of Iowa the custodian of all the books and papers relating to the lands of the State, and has charge of the office in which the same are deposited; that his certificate herein is to full faith and credit, and that the above is his genuine signature.

In testimony whereof, I have hereunto set my hand and caused the great seal of the State of Iowa to be hereunto affixed, the date above written.

[L. S.] SAM'L J. KIRKWOOD.

By the governor:

ELIJAH SELLS,
Sec'y of State.

382 STATE OF IOWA, *Polk County, ss:*

I, Charles H. Parker, do state on oath that the above and foregoing list was made by me from the original, and the same is a true and correct copy thereof, as I verily believe.

CHARLES H. PARKER.

Subscribed & sworn to by Charles H. Parker, before me, the 7th day of December, A. A. 1869.

[SEAL.] JOHN D. RIVERS,
Notary Public, Polk County, Iowa.

383 On this day, to wit, the 3d day of November, A. D. 1869, in the October term of said court, in the proceedings thereof in said entitled cause, is the following entry, to wit:

WILLIAM B. WELLES }
vs.
HANNAH RILEY. }

This cause coming on for hearing on this 3d day of November, 1869, upon the pleadings and proofs, Finch & Rivers & J. M. Elwood ap-

pearing for the complainant, and Galusha Parsons, esq'r, appearing for the defendant, and it appearing to this court that this action was
384 originally commenced in the district court of Webster County, Iowa, and that the same was duly transfered and removed to this court, under and by virtue of the act of Congress, approved July 27, 1866, entitled "An act for the removal of causes in certain cases from State courts," and the act of Congress amendatory thereof, approved March 2, A. D. 1867, entitled "An act to amend and act for the removal of causes in certain cases from the State courts, approved July 27, A. D. 1866."

And it also further appearing to this court that the said complainant, William B. Welles, is a citizen of the State of New York; that the defendant, Hannah Riley, is a citizen of the State of Iowa, and that after the removal of this cause to this court both parties appeared and filed their respective pleadings herein, and made up the issues upon which this cause was heard.

And it also further appearing to this court that the said com-
385 plainent, William B. Welles, is the sole and exclusive owner of, and has the title in fee absolutely to, the said tract, piece, or parcel of land in his bill herein described, in "the northwest quarter ($\frac{1}{4}$) of section thirty-three, (33,) in township eighty-nine (89) north, of range twenty-eight (28) west, of the fifth P. M., Iowa," and that he is entitled to the posession, use, control, and enjoyment thereof; that the said tract lies above or north of the Raccoon Forks, and within five miles of the Des Moines River, and is one of the tracts certified to the State of Iowa, March 10, 1852, as passing to said State under the grant of August 8, 1846, and the title to which was confirmed to the State by the acts and resolutions of Congress of the United States; that the said defendent claims title to said tract under and by virtue of a pre-emption entry, under the act of Congress of Sept. 4, 1841, and a patent
386 issued upon such entry bearing date Oct. 15th, 1863; that the said tract, at the time of such pre-emption entry, and at the time of the issuing of the said patent, was not a part of the public land of the United States; that at the time of the alleged settlement of the defendant thereon, under and by virtue of which said pre-emption entry was allowed, and patent issued to defendants, the said tract was, and for a long time prior thereto had been, duly reserved by the United States authorities, and was not then subject or liable to settlement, entry, and sale under the pre-emption laws of the United States; that the said pre-emption was allowed & said patent issued without the authority of law; that the said pre-emption entry and the said patent do not confer upon defendant, or invest her with any valid title whatever, to said tract, or
387 any part or parcel thereof, but that the said pre-emption entry and patent create and constitute a cloud upon the complainant's title to the said tract, and that all the material allegations in complainant's bill are true and fully established, and that he is entitled to the relief prayed in his said bill of complaint.

It is therefore declared, ordered, adjudged, and decreed, and the court now here does hereby order, adjudge, & decree, that the title of William B. Welles, the complainant, to the tract of land in complainant's bill described, and described as follows, to wit: "The northwest quarter of section thirty-three, (33,) in township eighty-nine (89) north, of range No. twenty-eight (28) west, of the fifth P. M., Iowa," be, and the same is hereby, in all respects, established, ratified, approved, and confirmed, and the same is hereby declared and held valid, absolute,
388 perfect, and complite; that the alleged and pretended title of the defendant to said tract, under her said patent and pre-emption

entry, is hereby declared, adjudged, and decreed to be invalid, and null and void, without any force or effect, and to confer no title whatever to said tract upon the said defendant; that the said pre-emption entry and patent of the said defendant to and upon said tract be set aside, and cancelled, and anulled, and held and declared of no forse, effect, or validity, and that the same be, and hereby are, held and declared to confer upon the defendant no title whatever to said tract, or any part, parcel, or portion thereof, and that the said patent be cancelled of record upon all public records where the same is recorded and relied upon as confirming title to said tract upon the said defendant.

389 And the court now here does hereby order, adjudge, and decree that the possession of the said tract by defendant as against the complainant is wholly unauthorized; that the said complainant is entitled to, and that he have, the possession, use, and enjoyment of the said tract, and every part, parcel, and portion thereof; that the said defendant, Hannah Riley, be, and she hereby as, forever and perpetually enjoined from proclaiming, or asserting, or maintaining any title to, or control over, or possession of, the said tract, or any part, parcel, or portion thereof, under her said pre-emption entry and patent, or otherwise, and forever and perpetually enjoyned and restrained from selling, disposing of, transfering, granting, and conveying said tract, and as signing or transfering her said patent, and that the said Hannah Riley surrender the said patent, and cause the same to be cancelled.

390 And the court now here does hereby also further order, adjudge, and decree that from and after the service of a copy of this decree on the said defendant, Hannah Riley, she utterly and forever ceases, and refrain, and desist from using, cultivating, occupying, controlling, or in any maner interfering, or intermedling with the said above-mentioned and described tract of land, and every part, parcel, and portion thereof; and that said Hannah Riley, after service of a copy of this decree on her, shall forthwith, upon demand of the said complainant, surrender and deliver to the said William B. Welles the full, entire, complete, and absolute possession and control of the said tract, and of every part, parcel, and portion thereof, and thenceforth, wholly, entirely, and perpetually desist and refrain from useing, entruding upon, occupying,

391 cultivating, intermedling with the said tract, or in any wise hindering, or interfearing with the said complainant in his use, occupation, control, and enjoyment of the said tract, or any part, parcel, or portion thereof.

And it is hereby further ordered, adjudged, and decreed that the said defendant, Hannah Riley, pay all the costs of this action, taxed by the clerk of this court at $, and that the proper and necessary process for the collection thereof be issued by the clerk of this court to the marshal of the district.

Which was endorsed:
Filed Nov. 13, 1869.

GEORGE B. CORKHILL, *Clk.*

392 Circuit court of the United States, district of Iowa.

WILLIAM B. WELLES }
vs. }
HANNAH RILEY. }

Upon the trial of this action, the defendant's counsel duly excepted to the admission of the following evidence:

1st. A letter of Richard M. Young, dated June 1st, 1849, upon the

ground that the same was not addressed to or received by the local land officers having jurisdiction over the premises in question.

2d. A letter from Jesse Bowen and Easton Morris to the Commissioner of the General Land Office, dated June 16th, 1849, upon the ground no reservation or correspondence through the Iowa City land office could affect the premises situate in another land district.

3d. A letter from T. Ewing, Secretary, to the Commissioner of the General Land Office, dated April 6th, 1850, upon the ground: 1st. That correspondence between the different officers of the department at Washington, not communicated to the local land officers, could
393 have the effect to reserve lands from sale which had been already proclaimed. 2d. That it was only an expression of opinion as to the construction to be given to the grant, and not a reservation of the lands.

4th. A letter from Alex. H. H. Stuart, Secretary, to the Commissioner of the General Land Office, dated July 26, 1851, upon the same grounds as to the last above.

5th. A letter from J. Butterfield, Commissioner, to the register of the land office at Dubuque, Iowa, dated March 16th, 1862, upon the grounds: 1st. That the lists therein referred to were improperly certified. 2d. That an act designed to transfer the title from the United States could not have the effect to reserve it to the United States.

6th. A notice by Jos. S. Wilson, Com. of the General Land Office, entitled "No. 661, notice respecting certain lands in the State of Iowa," upon the grounds: 1st. There was no evidence that it was com-
394 municated to the land officers of the Fort Dodge land district. 2d. That the acts of the department subsequent to the defendant's settlement upon and entry of the lands, could not have the effect to defeat her right.

7th. A letter from Richard M. Young, Commissioner, to Charles Corkery, dated February 22d, 1849, upon the grounds: 1st. That it was not an act of reservation, but the mere expression of an opinion. 2d. It was not addressed to any officer of the government, or to any one who could lawfully exercise any authority over the land.

8th. A letter from Jos. S. Wilson, Commissioner, dated August 13th, 1860, upon the ground that it was not shown in any way to relate to the land in question.

9th. A letter or certificate from Gov. Kirkwood to the Commissioner of the General Land Office, dated June 26, 1862, upon the grounds: 1st. It is not competent evidence of the facts therein stated.
395 2d. Being subsequent to the defendant's entry it cannot effect her rights.

J. M. LOVE,
Judge U. S. Court.

396 Circuit court of the United States, district of Iowa.

WILLIAM B. WELLES
vs.
HANNAH RILEY.

Now comes the above-named Hannah Riley, and petitions this court for the allowance of an appeal herein to the Supreme Court of the United States.

her
HANNAH + RILEY.
mark.

In presence of—
GALUSHA PARSONS.

STATE OF IOWA, *Webster County, ss:*

Hannah Riley, of said county, being duly sworn, says she is the petitioner above-named; that the value of the property in controversy in this action exceeds two thousand dollars exclusive of costs.

her
HANNAH + RILEY.
mark.

Sworn and subscribed before me, by Hannah Riley, this 29th day of November, 1869.

[SEAL.] A. B. SOULE, *Notary Public.*

The appeal in the above-written cause is allowed as prayed for in the foregoing petition. November 30, 1869.

J. M. LOVE,
Judge U. S. Court.

397 (Indorsed:) Circuit court of the United States, district of Iowa. William B. Welles vs. Hannah Riley; petition for allowance of appeal. Galusha Parsons, sol. for appellant, F. Dodge.

Filed Dec. 6, 1869.

GEORGE B. CORKHILL, *Clerk.*

398 In the circuit court of the United States, district of Iowa.

WILLIAM B. WELLES
against
HANNAH RILEY.

To William B. Welles, greeting:

You are hereby cited and admonished to be and appear at the Supreme Court of the United States, to be holden on the third Monday of December, 1869, at the city of Washington, pursuant to an appeal allowed and filed in the clerk's office of the circuit court of the United States, for the district of Iowa, wherein the above-named Hannah Riley is appellant, and you are respondent, to show cause, if any you have, why this judgment and decree of the court in said appeal mentioned should not be corrected, and speedy justice should not be done to the parties in that behalf.

Witness the Hon. James M. Love, justice of the said circuit court, this 30th day of November, 1869.

J. M. LOVE, *Judge.*

(Indorsed:) Circuit court of the United States. William B. Welles vs. Hannah Riley. Citation.

We hereby admit and accept due service of the within citation this 30th day of November, 1869.

FINCH & RIVERS,
& J. M. ELLWOOD,
Solicitors for W. B. Welles.

Filed Dec. 6, 1869.

GEORGE B. CORKHILL, *Clerk.*

399 On this day, to wit, the 6th day of Decem., A. D. 1869, came

said defendant and filed her appeal bond in said entit'ed cause, which said bond is in words and figures following, to wit:

400 Circuit court of the United States for the district of Iowa.

WILLIAM B. WELLS
vs.
HANNAH RILEY.

Know all men by these presents, that we, Hannah Riley and Michael Williams, are held and firmly bound unto William B. Wells, in the sum of three hundred dollars, to be paid to the said William B. Wells, his administrators or assigns, to which payment well and truly made we bind ourselves, our heirs, executors, and ministrators; sealed with our seals and dated this 30th day of November, A. D. 1869.

The condition of the above obligation is such that whereas the above-named Hannah Riley has prosecuted an appeal to the Supreme Court of the United States to reverse the judgment or decree rendered in the above entitled suit by the circuit court of the United States for the district of Iowa, at a term thereof held at the city of Des Moines on the 14th day of November, 1869:

Now, the condition of the above is such that if the above-
401 named Hannah Riley shall prosecute her appeal and answer all damages and costs, if she fail to make the same good, then this obligation to be void; otherwise the same shall be and remain in full force and virtue.

her
HANNAH × RILEY. [SEAL.]
mark.
MICHAEL WILLIAMS. [SEAL.]

In presence of—
GALUSHA PARSONS.

The foregoing is accepted as sufficient and the execution of a supercedeas bond is hereby waived.
Dated November 30th, A. D. 1869.

FINCH & RIVERS,
Pl'ff's Solicitors.

Approved November 30th, 1869.

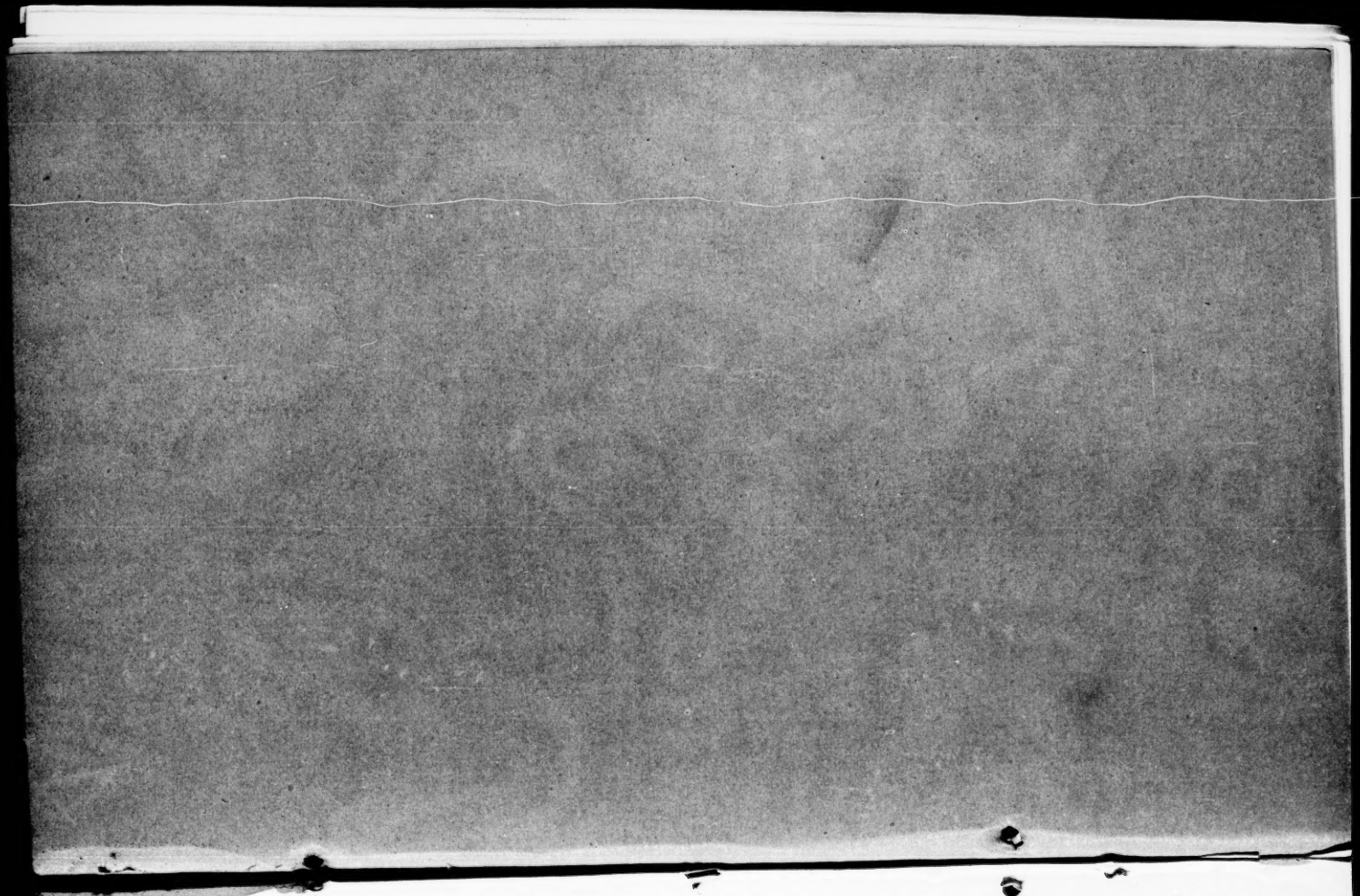
J. M. LOVE,
Judge U. S. Court.

402 I, George B. Corkhill, clerk of the circuit court of the United States for the district of Iowa, do hereby certify that the foregoing transcript from pages one to 402, inclusive, to contain a full, true, and perfect copy from the records of all the proceedings of said court in said cause, wherein William B. Welles was plaintiff and Hannah Riley was defendant, as the original of the same now remains in my custody, and on file and of record in my office.

In testimony whereof, I have hereunto set my hand and affixed the seal of said court, at my office in Des Moines, in said district, this 6th day of December, A. D. 1869.

[SEAL.] GEORGE B. CORKHILL, *Clerk.*

(Indorsement on record:) Iowa C. C. U. S. No. 397. Hannah Riley, appellant, vs. William B. Welles.
Filed 17th December, 1869.



SUPREME COURT

OF THE UNITED STATES.

DECEMBER TERM, 1869.

No. 397.

WILLIAM B. WELLES,
RESPONDENT.

vs.

HANNAH RILEY,
APPELLANT.

ARGUMENT FOR APPELLANT.

GALUSHA PARSONS,
Of Counsel for Appellant, Fort Dodge, Iowa.

DES MOINES:
MILLS & CO., PRINTERS AND LITHOGRAPHERS.
1870.

Supreme Court

OF THE UNITED STATES.

WILLIAM B. WELLES,
Res.

vs.

HANNAH RILEY,
App.

ARGUMENT FOR APPELLANT.

This action was brought in the Circuit Court of the United States for the District of Iowa, "to set aside the defendant's patent for the north-west quarter of section thirty-three, of township eighty-nine, of range twenty-eight, west, in the district of lands subject to sale at Fort Dodge, Iowa." The plaintiff obtained judgment and a decree was entered, declaring his title "perfect and complete," that, the defendants "pre-emption was allowed and patent issued without authority of law," and directing that the "patent be *cancelled of record upon all public records where the same is recorded.*" This appeal is brought from that decree.

The plaintiff claims title as follows:

1st. An Act granting certain lands to the Territory of Iowa, to aid in the improvement of the navigation of the Des Moines river, in said territory.

Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, That there be, and hereby is, granted to said territory of Iowa, for the purpose

of aiding said territory to improve the navigation of the Des Moines river from its mouth to the Raccoon Fork (so called), in said territory, one equal moiety, in alternate sections, of the public lands (remaining unsold, and not otherwise disposed of, incumbered, or appropriated, in a strip five miles in width on each side of said river, to be selected within said territory by an agent or agents to be appointed by the governor thereof, subject to the approval of the secretary of the treasury of the United States.

SECTION 2. *And be it further enacted*, That the lands hereby granted shall not be conveyed or disposed of by said territory, nor by any state to be formed out of the same, except as said improvement shall progress; that is, the said territory or state may sell so much of said lands as shall produce the sum of thirty thousand dollars, and then the sales shall cease until the governor of said territory or state shall certify the fact to the president of the United States that one-half of said sum has been expended upon said improvement, when the said territory or state may sell or convey a quantity of the residue of said lands sufficient to replace the amount expended; and thus the sales shall progress as the proceeds thereof shall be expended, and the fact of such expenditure shall be certified as aforesaid.

SECTION 3. *And be it further enacted*, That the said Des Moines river shall be and ever remain a public highway for the use of the government of the United States, free from any toll or other charge whatever, for any property of the United States or person in their service passing through or along the same: *Provided always*, That it shall not be competent for the said territory or future state of Iowa to dispose of said lands, or any of them, at a price lower than, for the time being, shall be the minimum price of other public lands.

SECTION 4. *And be it further enacted*, That whenever the territory of Iowa shall be admitted into the Union as a state, the lands hereby granted for the above purpose shall be and become the property of said state for the purpose contemplated in this act, and for no other: *Provided*, The legislature of the state of Iowa shall accept the said grant for the said purpose.

Approved, August 8th, 1846.

2d. A joint resolution to quit title to lands in the State of Iowa.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That all the title which the United States still retain in the tracts of land along the Des Moines river, and above the mouth of the Raccoon Fork thereof, in the state of Iowa, which have been certified to said state improperly, by the department of the interior, as part of the grant by act of congress, approved August 8th, 1846, and which is now held by *bona fide* purchasers under the state of Iowa, be and the same is hereby relinquished to the state of Iowa.

Approved March 2, 1861.

3d. AN ACT confirming a land claim in the state of Iowa, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the grant of lands to the then territory of Iowa, for the improvement of the Des Moines river, made by the act of Augnst 8, 1846, is hereby extended so as to include the alternate sections (designated by odd numbers) lying within five miles of said river, between the Raccoon Fork and the northern boundary of said state; such lands are to be held and applied in accordance with the provisions of the original grant, except that the consent of congress is hereby given to the application of a portion thereof to aid in the construction of the Keokuk, Fort Des Moines and Minnesota Railroad, in accordance with the provisions of the act of the General Assembly of the State of Iowa, approved March 22, 1858; and if any of said lands shall have been sold or otherwise disposed of by the United States before the passage of this act, except those released by the United States to the grantees of the state of Iowa, under the joint resolution of March 2, 1862, the secretary of the interior is hereby directed to set apart an equal amount of lands within said state to be certified in lieu thereof: *Provided*, That if the said state shall have sold and conveyed any portion of the lands lying within the limits of this grant, the title of which has proved invalid, any lands which shall be certified to said state in lieu thereof, by virtue of the provisions of this act, shall inure to and be held as a trust fund for the benefit of the person or persons respectively whose titles shall have failed as aforesaid.

Approved, July 12, 1862.

4. A joint resolution of the legislature of the State of Iowa, accepting the grant—January 9, 1847.

[*Record*, *p.* 73.

5. The approval of the land by the secretary of the interior to the state under the act of 1846, according to the construction then given by the department to that act—March 10, 1852.

[*P.* 45.

6. A contract between the state and the Des Moines Navigation and Railroad Company—June 9, 1854.

[*P.* 85.

7. A joint resolution of the state of Iowa—March 22, 1858.

[*P.* 73.

8. A deed by Ralph P. Lowe, Governor, to the Des Moines N. and R. R. Co.—May 3, 1858.

[*P.* 28.

9. A deed by the D. N. and R. R. Co. to the plaintiff.

[*P.* 29.

The evidence offered by the plaintiff is voluminous, but I think the above embraces all that is necessary so far as his title is concerned, to a correct understanding and decision of the cause. I suppose the cause will be decided upon the construction which this court shall give to the law, unaffected by the opinions or correspondence of the administrative officers of the government. I understand this court to have so held in D. & P. R. R. Co. vs. Litchfield. 23, How. 66.

The defendant claims title by virtue of her settlement and entry under the pre-emption laws of the United States. Her husband settled upon the premises in 1855; he died in 1857, leaving the defendant his widow, and several minor children. The defendant has continued to occupy the premises ever since. Shortly after his settlement, the husband applied at the proper office to be permitted to enter the land, and after his decease the defendant made repeated applications for the same purpose;

both were informed that the land was withheld from immediate entry, on account of the claim made by the state and its grantees under the Des Moines river grant, but that it would ultimately "be all right and they would get the land."

This court announced its decision in the case of The D. & P. R. R. Co. vs. Litchfield, in March, 1860; on the 10th of April, 1860, the defendant again made application to be permitted to enter, and her entry was allowed. She proved up May 30, 1862, and obtained her patent October 15, 1863.

I understand it to be conceded that the defendant's patent is valid unless the land was so situated at the time of her settlement and entry as to fall within that provision of the pre-emption law which declares that "no lands included in any reservation by any treaty law, or proclamation by the President of the United States, or reserved for salines or other purposes, shall be liable to entry."

Upon this subject I submit—

1st. That the evidence does not show that there was *in fact* any reservation at the time of the defendant's entry.

2d. If any existed, it was competent for the secretary of the interior, by whose order it was made, to restore the land to market.

3d. If any reservation was in fact ever made, it was not for *the use of the United States*, but under the mistaken supposition that the land was included in the grant of August 8, 1846, and for the purpose of satisfying that grant, in case it should be held by this Court to extend above the Raccoon Fork, that the effect of the decision of this court that the lands which had been prior to that time reserved, *were public lands*, was to release them from any reservation which had been mistakenly, though perhaps not improperly made, and to leave them subject to the pre-emption laws.

No reservation of these premises was made subsequent to that time.

No opinion was given in the court below. These statutes—and it is claimed by the plaintiff the questions involved in this case—have been several times before this court. It was claimed upon the argument in the circuit court that this court had by its decision in Wolcott vs. The Des Moines Navigation & R. R. Co.,

given such a construction to the statutes and the acts of the federal officers under them, as to leave the questions sought to be made in this case, no longer open; that the facts of the two cases were so nearly alike as to present only the same legal questions, I suppose that court to have adopted this view. I then thought, and still think, that *a great deal too much* was claimed for that decision; and before discussing the questions upon their merits, I shall endeavor to show that this court has not already decided them against us.

I. The defendant's rights do not depend upon any law then before this court.

II. While the plaintiff's title is derived from the statutes then before the court it does not depend upon the same questions. That case was so tried as to present *only* the question of the title of the Dubuque & Pacific Railroad Co. The plaintiff throughout the trial conceded—perhaps the language would not be too strong if I should say *claimed*—that he had obtained by his conveyance from the defendant a perfect title, unless it *appeared* that the title was at the time of his purchase in the railroad company. This question was assumed to depend upon whether congress at the time of the passage of the Iowa railroad bill—May 15, 1856—*intended* to reserve these lands from its operation. This seems to me to be the only question presented. The case contains only one exception, which is, to that *portion* of the charge which holds that the lands were at that time reserved—see page 58 of the printed record. Everything else was either directly admitted, or conceded in favor of the defendant. Upon this point I am unable to see how there could be any question *upon the evidence in that case*, it is stated as having been proved upon the trial that "the lands were *always* by the general land office and by the department of the interior withdrawn from sale or pre-emption, and were by said land office and department of the interior considered and held as appropriated and *reserved* for the purpose of satisfying the grant made by said act." There is no such evidence or admission in this case. It is not my purpose at this point to argue the question of reservation, it is only to point out the distinctions which I suppose to exist between that case and the present. I shall endeavor to show hereafter that there never was *any* reservation *in fact* of the premises in question.

III. The question then before the court was not so much whether there was an actual reservation of the particular premises in question, as whether Congress *intended* by the proviso in the railroad bill, to except from its operation *all* of the lands which had been previously certified under the Des Moines river grant. That question it seems to me would be determined not so much by what this court upon mature deliberation should declare the law to be, as to reservation or no reservation, as by what Congress had recognized to be the condition of the lands in that respect. This is in accordance with the opinion of this court when it says "Congress had specially in their minds the previous grant and the conflict of opinion concerning it, and *intended to reserve* the land for *future* disposition."

So far as this branch of the present case is concerned I suppose it to differ from that in this:

1st. In the present it is a question of actual and legal reservation, so as to take the land out of the operation of the pre-emption laws at the date of the defendant's settlement; in that it was, whether congress had this grant in their minds when they excepted lands "heretofore reserved to the United States."

2d. This case presents the question whether if these lands were, at any time prior to defendant's settlement and entry reserved on account of the conflict of opinion, respecting the extent of the grant of 1846, they would continue reserved without further order after this court had put an end to that conflict by its decision, that they were not embraced in that grant.

3d. Whether it was competent for the secretary of the interior after that decision, to allow entries of the lands which he had previously reserved under an erroneous construction of the law.

4th. Between the two corporations whose claims were then before the court, it was a question of strict legal construction; this court has always given to the pre-emption laws a liberal construction in favor of the settler.

IV. In that case it was conceded—at least no question was made—that all of the steps necessary to make the defendant's title perfect had been taken; in this case the plaintiff was put upon his proof; and I shall endeavor to show that the evidence fails to

show the necessary steps to vest the legal title in him, were the defendant's claim out of the way

V. The record in that cause states that it was proved upon the trial, "that as fast as said lands were approved the state entered into possession,"—if by this anything more is meant than that legal possession which the state always has of its lands, it is quite a mistake,—and that "the state and its grantees henceforth remained publicly and notoriously in possession of said lands, claiming ownership of the same, that it was in possession at the date of the passage of the railroad act and at the time of the settlement with and conveyance to the defendant in that action."

In this, there is no such evidence, on the contrary it is shown that up to the 30th of March, 1866, these grants, and others, remained unadjusted, that on that day the legislature appointed a commissioner to adjust and settle them with the general government, that such settlement was made, that the commissioner expressly released all claims of the state to the lands which had been patented or pre-empted prior to July 12, 1862, including the land in question, and received indemnity for them. The settlement was ratified by the state, in conformity to the act appointing the commissioner, and was further ratified by act of the legislature, March 31st, 1868.

These are some of the distinctions which I suppose to exist between Wolcott's case and the present. If I am right, it is evident that the material questions involved in this action were not involved in that.

To say that this controversy has been a very protracted one, is to say what the members of this court have known for *many* years. To say that it is an important one, is to say only what appears by the record. That it has been for twenty years a *blight* upon the best portion of the state of Iowa, is the misfortune rather than the fault of those who have sought homes along the valley of the upper Des Moines. I suppose the present record, to present all of the facts necessary to a final determination of the controversy, and I hope we may be allowed to present upon their merits, all of the questions which it fairly involves.

FIRST.

As I understand the law, the plaintiff has mistaken the relief to which, under any state of facts, he would be entitled; a patent, can be *cancelled* only at the suit of the government.

Silver vs. Ladd, 7 *Wallace*, 219.

SECOND.

Has the plaintiff shown *a right* to the legal title as against the defendant?

I know of but three ways in which the United States can be divested of its title:

1st. By congressional grant, which *ex proprio vigore* passes title to the *particular* premises granted.

2d. By congressional grant, general in its terms, followed by the certified lists of the commissioner of the general land office.

3d. By patent.

This is perhaps a little too elementary to be so formally expressed in this court.

I. The act of August 8, 1846.

Without going into the history of the various *opinions* which were given as to the true construction of this act, it is sufficient to state what *was done* under it.

March 2, 1849, Mr. Walker, secretary of the interior, expressed the opinion that the grant extended to the source of the river, but no lists were certified during his term of office.

In 1851, Mr. Stewart, secretary, decided that this grant did not extend above the Raccoon Fork, but "as the question of the true construction of the statute partook more of a judicial than an executive character," approved lists "without prejudice to the rights of others."

Oct. 30, 1851,	81,707.93	acres.	
March 10, 1852,	143,908.37	"	embraces the premises in question.
Sec. M'Clellan, Dec. 17, 1853,	33,142.43	"	
Dec. 30, 1853,	12,813,51	"	
Total,	271,572.14		

These lists and certificates appear in the record, they embrace all of the lands certified prior to the settlement between the state and the general government in 1866.

This court has decided that the act of 1846 did not embrace the premises in question. Whatever force, if any, the acts of the executive officers under it may have is derived from,

II. The joint resolution of March 2, 1861.

Without examining, or even referring to the numerous decisions upon that subject, I think the result of all of them is to establish as a rule of *law*, that legislative acts do not *ex proprio vigore* vest title *in presenti* in the grantee unless the subject of the grant is described with substantially the same certainty that is required in a patent.

"The land granted must be so described that a third person can by the exercise of reasonable intelligence locate it from the act itself," or the act must refer to, and adopt, a description which is equally certain. Do this resolution, and the certificates to which it refers so describe the premises as to render further evidence of the land which was intended to be granted unnecessary?

If they do not, I understand the law to be that no title vests to any particular piece of land, and of consequence, that no action can be maintained by the grantor until the subject of the grant shall be ascertained, and lists properly certified by the commissioner of the general land office. The case then falls within the act of Congress of August 3, 1854.

An Act to vest in the several States and Territories the title in fee of the lands which have been or may be certified to them.

Be it enacted by the Senate and House of Representatives of the United States in Congress assembled, That in all cases where lands have been, or shall hereafter be, granted by any law of Congress to any one of the several states and territories; and where said law does not convey the fee-simple title of such lands, or require patents to be issued therefor; the lists of such lands which have been, or may hereafter be certified by the commissioner of the general land office, under the seal of said office, either as originals, or copies of the originals or records, shall be regarded as conveying the fee-simple of all the lands embraced in such lists that are

of the character contemplated by such act of Congress, and intended to be granted thereby; but where lands embraced in such lists are not of the character embraced by such acts of Congress, and are not intended to be granted thereby, said lists, so far as these lands are concerned, shall be perfectly null and void, and no right, title, claim, or interest shall be conveyed thereby.

Approved, August 3, 1854.

Perhaps it is hardly pardonable to make an *argument* upon an act of Congress containing but one sentence, yet I hope an analysis—as brief as possible—will not be out of place.

1st. It is clear that Congress did not intend to quit title to *all* of the tracts of land which had been previously improperly certified.

2d. In terms it provides against any construction by which it might be held to interfere with any rights which other parties might have acquired under the laws of the United States, "all the title which the United States *still retain.*"

3d. "Now held by *bona fide* purchasers under the State of Iowa."

Why add this, if it was intended to quit claim to all of the lands which had been improperly certified? Without this clause the resolution would have expressed exactly that idea. It not only limits the grant to the tracts held by purchasers, but among purchasers it makes a distinction.

If there were any doubt upon the language of the act, the history of its passage as contained in the *Congressional Globe* would remove it.

HISTORY OF THE PASSAGE OF THE JOINT RESOLUTION.

Senate, Feb. 23, 1361.

Mr. Harlan—I move joint resolution No. 70. It *involves but a small quantity of land.* * * *

I ask that the report of the House Committee may be read.

Report.—Speaking of the history of the Act of 1846, it says: "But on the 15th of July, 1856, Congress made another grant of land to the State of Iowa to aid in the constructions of certain railroads therein specified. *This grant covers all but about one thousand acres* of the same land which had been certified under the Act of 1845, *and is therefore* beyond the reach and control of the Government of the United States."

Mr. Green, of Missouri, claimed that a great deal more land was embraced, and objected to the passage of the resolution, "except so far as it affects private citizens; so far as it affects them I am willing to go."

Mr Polk—"I move to insert the words '*and by the said State sold to actual settlers.*'"

Mr. Grimes—"If the Senator will insert the words 'any *bona fide* purchaser from the State of Iowa,' I shall be satisfied."

Mr. Polk—"The objection to that is, it would not shut out the *speculators.*"

Mr. Green—"This New York company have a speculation on hand. They want to claim that *they* are *bona fide* purchasers, but I want *actual residents, citizen purchasers.*"

Mr. Polk—"The view of it is this, that there is no claim in law or in equity against the United States for granting this land, but I am willing that the United should relinquish the title *where actual settlers* have bought the land and gone on it, *but I am not willing to do that to favor those persons who have bought as speculators.*"

Mr. Crittenden—"I suggest all *bona-fide* purchasers deriving title under the State."

Mr. Polk—"I agree to it."—Cong. Globe, 1130, *et. seq.*

The resolution agreed to in its present form by those who were studiously desirous that it should be so framed as to exclude this "New York company," and supported by those who were opposed to it, in *any form except for the protection of the actual settler.*

Mr. Lane, of Oregon—"There is only one thing in the world that can induce me to go for it, *and that is for the protection of settlers.*" Globe, 1158.

It is true Mr. Grimes expressed a different opinion, but the point which I make is, that the act received its present form from those who opposed his views, and that it was put in this form for the purpose of excluding that class of claimants.

If partition was to be made between the lands granted and those to which the government retained the title, the case falls within the very terms of the statute above quoted. In such cases, this court has often said "The grantee has no standing in the courts until the land has been designated by the executive officers of the Government."

If I do not misapprehend the decisions, the case ends here, it is not claimed that the lists certified since the resolution, embrace the premises in question.

Cooper vs. Roberts, 18 *How.* 173.

The plaintiff claimed to recover under a title derived from the State of Michigan.

The act of Congress admitting Michigan into the union, granted to the state every sixteenth section for the use of schools. Passed June 23, 1836. March 1, 1847, Congress provided for the sale of mineral lands. This section was of that character. The land was surveyed in the summer of 1847.

The Court say: "The question is whether the act of 1847 withdrew mineral lands from the compact of 1836. We agree that until the survey of the township and the designation of the particular section, the right of the state vested in compact, binding it is true, the public faith and dependent for execution upon the public authorities. Courts of justice have no authority to make out and define the land which shall be subject to the grant, but when the political authorities have performed this duty the compact has an object upon which the grant attaches and if there is no legal impediment the title of the state becomes a legal title. The *jus ad rem*, becomes a *jus in re* judicial in its nature, and under the cognizance and protection of judicial authority."

The case was cited upon the argument by the plaintiff to the point, that the conveyance by the governor in 1858 was valid, although not in accordance with the terms of the grant. I do not see that any such question was involved.

Kissell vs. Saint Louis Public Schools. 18 *How.* 19—cited by plaintiff's counsel under the head of reservation. June 13, 1812, Congress passed an act providing for the settlement of land claims in the state of Missouri. The second section of the act provides that "all surveyed out lots in the village of Saint Louis, not rightfully owned or claimed by any individual, *are reserved for the support of Schools.*" By an act of Congress passed January 31, 1831, the United States released to the inhabitants of the village of Saint Louis, "all the right, title and interest of the United States in and to said lots, * * * to be held by the

inhabitants of said village *in full property.*" By the act of 1812, these "out lots" were to be urveyed by the Surveyor-General. The survey was completed in 1840. May 2, 1836, one Duncan, the assignor of the plaintiff in error entered the land; the commissioner of the general land office refused to allow the entry. Kissell, as the assignee of the register's certificate took possession of the premises, and the board of education brought ejectment.

The Court say:

"The land was within the notorious limits of Saint Louis, according to its act of incorporation * * * the act of 1831 *vested the title* to these lands in the city. Our opinion is that they were in the condition of Spanish claims, after confirmation by the United States, without having established and conclusive boundaries made by public authority, and which claims depended for their specific identity on surveys to be executed by the government. In such cases the rule between executive and judicial powers is that until a designation of the premises, accompanied by a survey or description, was made by the Surveyor-General, the grant attached to no land, nor had a court of justice jurisdiction to ascertain its boundaries. * * * We are furthermore of the opinion that the certificate of the Surveyor-General, which was accepted by the grantees, *is record evidence of title* by the recitals in which the Government and the Board of School Directors are mutually bound and concluded. * * * The parties interested have agreed that this land was a school lot, and here the matter must rest *unless some third person can show a better title.*"

I do not see that the case presents any question as to reserved lands. It certainly holds that the *title* had passed from the United States by a description which *notoriously* embraced the land in question, before the entry by the plaintiff in error, that the land being ascertained according to the terms of the law by a subsequent survey, the grantee could maintain ejectment against one *who could not show a better title.*

In this connection, and as bearing upon the question of the certainty required in grants in order that the title may vest *proprio vigore*, I desire to call the attention of your honors to the case of *West vs. Cochran*, 17 *How.* 403. "It has been often held by this court that the judicial tribunals in the ordinary administration of justice have no power to deal with these incipient

claims, either as to fixing boundaries by survey or for any other purpose, but that claimants are compelled to rely upon Congress, on which power was conferred by the constitution to make all needful rules and regulations respecting the territory and property of the United States. Among these needful regulations was that of providing that these unlocated claims should be surveyed by lawful authority, a consideration that has occupied a prominent place in the legislation of Congress from an early day." What is farther said on the subject is equally applicable to the present cause. "Congress did not intend that a final legal title as against the United States should be made to vague grants until their bounds had been ascertained * * and the particular tracts defined by survey * * Until the survey was made the plaintiff's title attached to no land, nor could a court of justice ascertain its boundaries, as this power was reserved to the executive department of the federal government."

I cannot better present my ideas upon this question than by an extract from the reply of the counsel for the defendant in error in Wolcott's case to the argument filed by the intervenors: "If we were to admit that the act in question made a present grant, which would attach as soon as the lands were certainly identified, it *would not help* their argument, for it remains to determine at what precise moment that certainty is attained. Clearly it was not when the act was passed by Congress, for the state might decline to accept it."

With a change of language only so far as to apply the argument to this case, it was for the secretary of the interior to set apart and certify the lands under the grant, and then for the first time the grant would attach to the lands so certified. To further quote from that argument:

"This court has repeatedly decided in the case of holders of New Madrid certificates, who were entitled to select lands, that their title to the land so selected did not attach as soon as the *party* made selection and gave notice of it, but only after the proper *government officer had acted upon such selection and* approved it, because that is the first appropriation of the land." In 12 *How.* 74 the court speak of a selection made by the claimant and notice thereof given by him, as the mere act of the party not having the assent of the government, but of the action of the government officers upon such selection the court say,

"this return the recorder had to examine, pass upon and record, if the location and survey had been properly made, then the United States assented to the exchange, and not till then."

What portion of this language is not quite as applicable to the present case?

"So much of the land improperly certified as was then held by *bona fide* purchasers,"—by whom was this to be determined, by the *ex-parte* action of an officer of the grantee, or did it require as counsel then claimed, the approval of the proper executive officers of the federal government and certified lists, before the grant would attach to any particular tract of land?

No claim is made that such action has been had.

3d. The act of July 12, 1862.

As I am now discussing only the questions which arise upon the plaintiff's title without regard to the defendant's claim, I need only say that the premises in question have not been certified under this act, and that other lands have been "certified in lieu thereof."

THIRD.

Assuming that the above acts and the proceedings under them are sufficient to vest the title in the state, has the plaintiff succeeded to that title?

I concede that *after title has become perfect* in the state, it may convey the legal title in disregard of the conditions of the grant, but conveyances made before that time must be in accordance with the terms of the grant.

1st. If the act of 1862 may be regarded as confirming the claim of title made under the act of 1846, still the plaintiff can derive no benefit from it, for the last act requires that the lands shall be disposed of in accordance with the original grant, and that permitted their sale only "as the improvement progressed." The sale to the plaintiff's grantor *in solido* was in violation of that law.

2d. The joint resolution of the legislature did not authorize the governor to convey, it was a mere prop osition and evidently contemplated further legislation.

3d. The legislature of the state of Iowa cannot dispose of the public property by *joint resolution*, it is not a form of legislation recognized by the constitution of that state. By general parliamentary usage joint resolutions may be adopted by a majority of a quorum of each branch of the legislature. By the constitution of the state of Iowa, "no bill shall be passed unless by a majority of all the members elected to each branch of the General Assembly;" and by another provision the *style* of all laws is required to be, "*Be it enacted* by the General Assembly of the State of Iowa." It is not necessary under the rules of the general assembly of Iowa that resolutions should be passed by the number of votes or with the formality required in the passage of bills, nor is the governor's approval requisite.

"Joint resolutions shall not be required to be framed *or treated* as a bill, but shall be subject only to the rules pertaining to ordinary and concurrent resolutions." *House Rule* 55. It is submitted that a resolution so adopted would not authorize the governor to convey the public property.

By the federal constitution the passage of *resolutions* is expressly provided for. There is no similar provision in the constitution of Iowa.

I am not asking this court to declare a law of that state unconstitutional, I claim that there is no law.

4th. The deeds of Governor Lowe were void. Assuming that a joint resolution could have the force of law, still he was not authorized to convey except on the written requisition of the commissioner. The language of the resolution is: "The state of Iowa shall by its proper officer certify and convey." Though patents are to be *signed* by the governor, they are to issue from the state land office, and the statutes declare—Rev. S. 99—that "No patents or conveyances of Des Moines river improvement lands shall issue *except on the written requisitions of the commissioner thereof;*" and by the same section it is further "provided that all patents issued for any of the Des Moines river improvement lands shall contain the following clause: 'Nothing in this act

shall be construed *into a warranty* by the state against any claim or claims to said lands arising out of any pre-existing contract in relation to said lands, made or entered into by the state or any of its agents, nor as intended to interfere with *any* of the rights of any person or company to any of said lands accruing *by virtue of any law of this state* or any contract under the provisions of any of said laws." As I understand the law, where authority is given by a public statute its execution must be according to the terms of the statute or it is void, not simply for the excess, but *in toto*.

5th. The defendant at the time of the conveyance by the governor was occupying the land, and had *a claim* under the laws of the state of Iowa.

"The owner of what is known as a valid claim or improvement on the *public lands* has a transferable interest therein, which may be sold on execution or otherwise, and any sale of such improvement is a sufficient consideration to sustain a promise.

Rev. S. 2205.

6th. I do not see why an attempt by a state legislature to dispose of the public lands of the United States is not a violation of the ordinance of 1787. I have not forgotten the decisions of this court as to the force of that ordinance since the adoption of the federal constitution, but the act admitting Iowa into the Union contains the same language.

FOURTH.

Concede,

1st. That the deeds by the Governor were authorized by law, and in all respects duly executed.

2d. That the acts of 1861 and 1862 vested in *the State* without the action of the executive officers, an immediate title to the particular premises in question; still I maintain that the plaintiff takes nothing for the reasons,

1st. Public grants are quit claims; if the state has no title at the time the grant is made it is absolutely void.

2d. The rule of the common law, that a subsequently acquired title inures to the benefit of a prior grantee is applicable only to deeds of warranty and is founded upon the principles of estoppel.

3d. S. 2210 of the Iowa revision has not changed the rule either as to the cases or parties to which it should apply.

The maxim that statutes do not bind the king is quoted as often by American as by English jndges. Judge Story says:

"The words of a statute ought not to include the government or to affect its rights, unless that constructlon be clear and indisputable. Upon the text of the act it should appear that the government itself was in the contemplation of the legislature before a court would be authorized to put such a construction upon any statute."

I am not so much a stranger to the learning of this court as to suppose that I am stating what is not as familiar to every one of its members as the alphabet; but as it was earnestly urged upon the trial of this cause that this court had decided that such was *not* the law, I hope to be excused for referring to these *very* elementary principles. The section of the statute relied upon is found under the head "OF THE RIGHTS OF PERSONS." It seems to me that there is scarcely a section of our statutes which might not with greater propriety be held to include the government than this; but it is replied, "This court has expressly decided in reference to this very statute that it does embrace the state."

My answer is:

1st. In Wolcott's case the counsel for the defendant claimed, and the counsel for the plaintiff conceded, that such was the law; the statute was received in evidence without objection, and no exception was taken of that part in the charge.

2nd. Throughout the trial of that cause the only question *litigated* was, whether the state took title to the lands in question under the railroad grant of 1856; the record says, "To this *portion* of the charge the plaintiff's counsel objected." The cause was submitted in this court upon printed arguments, and there is not even an allusion to this statute, the questions raised by the plaintiff in error relate solely to the *railroad* title. Where there is no exception there is no error. It would hardly be excusable in any court to *argue* the maxims of the law. I submit, while the general question has been often before this court and uniformly decided in favor of the claim of the appellant, that the particular question upon this statute is now for the first time before the court. If it were written in the statute, in terms that it should apply to deeds by the state, it seems to me that the principle of the case would then be *precisely* that upon which

the court put its decision in *Rice vs. Railroad Company*, 1 *Black* 360. The act of incorporation under which the railroad company claimed in that case, so far as material to this question reads, "It is further enacted that any lands that *may be* granted to said territory to aid in the construction of the said railroad shall be and the same are *granted in fee-simple absolute without any further act or deed*, and the governor of this territory or future state of Minnesota is hereby authorized and directed after the said grant shall have been made by the United States, to execute and deliver to said company such further or other assurance of the transfer of the said property as said company may require to vest in them a perfect title of the same."

It was passed March 4, 1854, while the bill making the grant was pending in Congress.

The bill passed in Congress, June 29, 1854.

Congress *repealed* this act August 4, 1854.

The plaintiff claimed under a patent from the United States dated January 1, 1856.

After the passage of the bill by Congress making the grant, and before its repeal, stock was subscribed in the company to the amount of a million dollars and the road was duly located.

The case was decided upon the defendant's demurrer to the reply upon the ground that *its rights vested before the repeal, and that the repealing act was void.*

By the Court, CLIFFORD, J. The first question is: "Whether the defendants acquired any right, title or interest in the lands in controversy by virtue of the provisions of their charter as originally granted by the territorial legislature.

"It is insisted by the defendants that their original charter of that part of it already recited operated as a valid grant to them of all the lands thereafter to be granted by Congress to the territory and that the charter took effect as a grant so as to vest the title *in the company the moment the act of Congress was passed.* But it is *very clear* that the proposition can not be sustained, for the reason *that both principle and authority forbid it.*

"*Grants made by a legislature are not warranties*, and the rule universally applied in determining their effect is, that if the thing granted was not in the grantor at the time of the grant, no estate passes to the grantee. Even the defendants admit such was the rule at common law; *ut they contend that the rule is not applicable*

to their case. Several reasons are assigned for the dis
when rightly considered they have no better founda
distinction itself, which obviously is without merit.

"One of the reasons is that the rules of decision are de
the laws of the states, *but in the construction of the laws of Congress the rules of the common law furnish* the true guide, and the same remark applies to the construction of the statutes of a state, except in cases where the courts of the state have otherwise determined. See 11 *Peters*, 545.

"More direct adjudications however as to the validity of a grant when the title was not in the grantor at the time it was made are to be found in the earlier decisions of the court. *Three times at least the question has been expressly ruled and in every instance the same way.* It was presented in the case of *Polk's Lessee v. Wendell*, 9 *Cranch*, 99, and the Court, MARSHAL, Ch. J., in delivering the opinion of the court said, '*That when the State* has no title to the thing granted, or when the officer issuing it had no authority, *the grant is absolutely void.*' Five years afterward the same case was again brought before the court and the same doctrine was affirmed in the same words. 5 *Whea.*, 303.

"The question was again before the court in the case of *Patterson v. Winn* 11 *Whea.*, 380, and the court assume as the settled doctrine of the court, if the State has *no title at the time a patent was made it is absolutely void.*"

The questions which I have so far considered are those which I suppose would arise upon the plaintiff's title, were the defendant a mere trespasser.

The bill and the argument in the circuit court are the only means that I have of knowing upon what grounds the plaintiff will place his claim in this court.

The bill claims that, "The plaintiff is the owner of and has and holds the title in fee," that "by virtue of the said several acts of Congress herein recited and referred to, and the acts of the executive officers and departments thereunder, all the title which the United States ever had to the lands herein claimed by your orator had been and was duly transferred from and out of the United States, and passed to and became vested in the State of Iowa and its grantees, including your orator;" that "the defendant's certificate and patent are without any force or validity and confer no title whatever upon the said defendant;" that "they create

the court put its decision in *Rice vs. Railroad Company*, 1 *Black* 360. The act of incorporation under which the railroad company claimed in that case, so far as material to this question reads, "It is further enacted that any lands that *may be* granted to said territory to aid in the construction of the said railroad shall be and the same are *granted in fee-simple absolute without any further act or deed*, and the governor of this territory or future state of Minnesota is hereby authorized and directed after the said grant shall have been made by the United States, to execute and deliver to said company such further or other assurance of the transfer of the said property as said company may require to vest in them a perfect title of the same."

It was passed March 4, 1854, while the bill making the grant was pending in Congress.

The bill passed in Congress, June 29, 1854.

Congress *repealed* this act August 4, 1854.

The plaintiff claimed under a patent from the United States dated January 1, 1856.

After the passage of the bill by Congress making the grant, and before its repeal, stock was subscribed in the company to the amount of a million dollars and the road was duly located.

The case was decided upon the defendant's demurrer to the reply upon the ground that *its rights vested before the repeal, and that the repealing act was void.*

By the Court, CLIFFORD, J. The first question is: "Whether the defendants acquired any right, title or interest in the lands in controversy by virtue of the provisions of their charter as originally granted by the territorial legislature.

"It is insisted by the defendants that their original charter of that part of it already recited operated as a valid grant to them of all the lands thereafter to be granted by Congress to the territory and that the charter took effect as a grant so as to vest the title *in the company the moment the act of Congress was passed.* But it is *very clear* that the proposition can not be sustained, for the reason *that both principle and authority forbid it.*

"*Grants made by a legislature are not warranties*, and the rule universally applied in determining their effect is, that if the thing granted was not in the grantor at the time of the grant, no estate passes to the grantee. Even the defendants admit such was the rule at common law; *ut they contend that the rule is not applicable*

to their case. Several reasons are assigned for the distinction, but when rightly considered they have no better foundation than the distinction itself, which obviously is without merit.

"One of the reasons is that the rules of decision are derived from the laws of the states, *but in the construction of the laws of Congress the rules of the common law furnish* the true guide, and the same remark applies to the construction of the statutes of a state, except in cases where the courts of the state have otherwise determined. See 11 *Peters*, 545.

"More direct adjudications however as to the validity of a grant when the title was not in the grantor at the time it was made are to be found in the earlier decisions of the court. *Three times at least the question has been expressly ruled and in every instance the same way.* It was presented in the case of *Polk's Lessee v. Wendell*, 9 *Cranch*, 99, and the Court, MARSHAL, Ch. J., in delivering the opinion of the court said, '*That when the State* has no title to the thing granted, or when the officer issuing it had no authority, *the grant is absolutely void.*' Five years afterward the same case was again brought before the court and the same doctrine was affirmed in the same words. 5 *Whea.*, 303.

"The question was again before the court in the case of *Patterson v. Winn* 11 *Whea.*, 380, and the court assume as the settled doctrine of the court, if the State has *no title at the time a patent was made it is absolutely void.*"

The questions which I have so far considered are those which I suppose would arise upon the plaintiff's title, were the defendant a mere trespasser.

The bill and the argument in the circuit court are the only means that I have of knowing upon what grounds the plaintiff will place his claim in this court.

The bill claims that, "The plaintiff is the owner of and has and holds the title in fee," that "by virtue of the said several acts of Congress herein recited and referred to, and the acts of the executive officers and departments thereunder, all the title which the United States ever had to the lands herein claimed by your orator had been and was duly transferred from and out of the United States, and passed to and became vested in the State of Iowa and its grantees, including your orator;" that "the defendant's certificate and patent are without any force or validity and confer no title whatever upon the said defendant;" that "they create

a cloud upon the title of your orator." The prayer is that they "be set aside and declared of no force and validity"—or that "the defendant be declared to hold as trustee for your orator."

The decree is, that "the complainants title be and the same is hereby in all respects established, ratified, approved and confirmed, and the same is hereby declared and held valid, absolute, perfect and complete;" that "the defendant's patent and pre-emption entry be held, declared, and adjudged to be invalid, null and void without any force or effect," "and that the same be set aside, cancelled and annulled;" that said patent be cancelled upon all public records where the same is recorded," and that "the said Hannah Riley surrender and cause the same to be cancelled."

I have already said that I suppose that in no case could *such* a decree be entered at the suit of a private citizen.

Upon the argument, it was claimed

1st. That the plaintiff held the legal title.

2d. That he held the equitable title, while the legal title was conceded to be in the defendant.

To this it was answered:

1st. If he held the legal title he should have proceeded by ejectment or action of right and not by suit in equity.

2d. That the laws and proceedings under which he claimed, could give him no equitable title as against the defendant, whose rights, if any, accrued prior to the passage of the joint resolution, upon which the plaintiff mainly based his claim of title.

To which plaintiff replied:

The lands were *reserved* at the time of the plaintiff's settlement and entry, and therefore not subject to pre-emption sale, *and that this court had so decided in Wolcott's case.* I have not yet been able to see that either the questions or the principles upon which its decision must rest, were in any way involved in that case. The argument by which counsel sought to maintain his position, I then thought, and still think was much more plausible than forcible and more labored than lucid.

FIFTH.

RESERVATION.

I maintain,

1st. That as a question *of fact* the evidence does not show that the land was reserved either at the time of defendant's settlement or entry, that on the contrary, if evidence were necessary, it was shown that it was not reserved.

2d. That if at any time prior to the defendant's entry the land was reserved, it was done by that department of the government which afterward allowed the entry; that as matter of law it was competent for the secretary of the interior to restore to market, lands which he had previously withheld, that by the act of allowing the entry, he did so, *as to the particular premises in question.*

3d. That when lands are reserved under a mistaken construction of the law, they still remain liable to pre-emption settlement; that if in strictness the entry cannot be made while the reservation continues, the *right* attaches, and the entry may be made immediately upon the removal of the reservation; if this were not so the citizen might be deprived of a right secured to him by act of Congress, by the mistakes of the department. The rule of law which I suppose applicable to the *onus* of proof and of argument upon this branch of the case--which I do not quote because I suppose it is not familiar to this court—in *Winter* v. *Crommelin*, 18 How., 87—is thus expressed: "The presumption is that the patent was regularly issued, it is *prima facie* evidence of itself that *all* of the incipient steps had been regularly taken before the title was perfected by patent."

In another case this court quoting from Vine's Abridgment says: "~~Whether motives~~ are concurrent to make a conveyance estate, or other thing, the original act shall be preferred, and to this the others shall bear relation."

"There is no rule better founded in law, reason or convenience, than this, that all the parts necessary to complete a conveyance, shall be taken as one act, and operate from the substantial part by relation."—12 How. 372.

No attempt was made by the defendant upon the trial to prove what the law presumes; the burden being upon the plaintiff

× Where divers acts

does his evidence show that at the time of defendant's entry—April 10th, 1860—the land was reserved for any purpose within the meaning of the pre-emption laws. While counsel upon the argument in the circuit court were very positive that the reservation had been made, they were either unable, or did not care to tell us by whom, when, how, or for what purpose it was made, they seemed to rely upon Wolcott's case for their facts as well as for their law. I have already given my reasons for supposing that that case did not involve the question either of fact or of law as now presented.

The plaintiff's evidence upon the subject consists of general orders, opinions, and semi-official, or less than semi-official, correspondence. These papers certainly show that there was some difference of opinion among the authorities, and others, as to the extent of the grant of 1846, but when the numerous gentlemen taking part in the argument as counsel for the plaintiff, were asked to inform us by which of these documents the particular premises in question were reserved, there was as great a conflict of opinion among them as there had formerly been among the public officers.

I am not aware that this court has decided that a reservation must be made in any *particular* manner, nor do I see any good reason why it should so decide, but I suppose it must be made by one having authority under *some law*, and that it must be communicated to the officers having jurisdiction over the land for the purposes of sale.

No appropriation of public land can be made for any purpose but by authority of Congress.

No reservation can be made after a citizen has acquired a right to the land under the pre-emption law.—14 *Peters* 467.

I submit that no reservation of lands once properly in market so as to become subject to the pre-emption laws can take effect as against the right of the citizen under these laws, unless made by public proclamation of the President, until it is communicated to the register of the local land office. By a rule of the department orders of a local character take effect only from the date of their receipt at the local office. If these positions are correct the facts proved in this case show no reservation. Much the greater part of the evidence offered by the plaintiff is totally irrelevant. What the officers of the board of public works in

Iowa, and their attorneys and subordinates, may have thought about it, or what a "solemn protest" of the delegation in Congress from that state, or what a secretary or an attorney-general, may have *said*, in answer to their importunity, has no bearing upon the question. Counsel upon the trial seemed to labor under the impression that the question as to whether title to a portion of the public lands had passed from the United States, or not depended in some way upon the opinions of the administrative officers of the government, and the *claims of the grantee.*

Rejecting the class of evidence that was given upon this theory, —to which objection was made, and exceptions taken upon the trial—there is nothing left, but—

1st. The letter of R. M. Young, commissioner to the register and receiver of the United States land office at IOWA CITY, dated June 1st, 1849, and received June 16th, being the letter referred to in the charge of the circuit judge in Wolcott's case.

2d. The list certified under the grant of 1846, March 10th, 1852.

The force of the first cannot be understood without understanding *the boundaries of the land districts of Iowa.*

The Dubuque land district, with its office at Dubuque, originally embraced all of the territory of Iowa and a considerable portion of Wisconsin. August 8th, 1846, Congress created a new district, called *the Iowa District*, "comprising all the land lying between the line dividing townships seventy-five and seventy-six north, and the line dividing townships eighty-three and eighty-four north."

The office for this district was located at Iowa City.

The premises in question are a portion of township eighty-nine, which remained in the Dubuque district. *The Iowa City land office never at any time had jurisdiction over these premises.* Up to August 2d, 1852, they were in the Dubuque land district. From that day to March 3d, 1855, they were in the *Northern District*, with its office at Des Moines. Upon that day Congress created the Fort Dodge land district, which now includes them.

It does not appear either by the report of the case or by the briefs of counsel that the boundaries of these districts were called to

the attention of this court upon the argument of Wolcott's case; and if they had been, I think I can see that this order might have been competent in that case, when the purpose was to give construction to a grant which, embraced as well premises lying in the Iowa district, as those lying north of it, while it does not follow that it is competent upon the trial of a cause which involves the construction of no grant embracing a large extent of territory, but which presents the distinct question whether an order addressed to the register of one land district directing him to withhold from sale "certain lands in his district," can by legal construction be held to extend to *another* land district, so as to deprive the settler of the right of pre-emption. I place but little stress upon what has been said in official correspondence that these lands were not then surveyed, and therefore were not included in this order. I wish to stand distinctly upon the ground, that when the question is as to the reservation of a *particular piece* of land, so as to take it out of the pre-emption laws, an order addressed to the register of a land office will have no effect, *and is not competent* evidence, unless the land is a portion of the territory over which he has jurisdiction. Nor do I scarcely care to add that by the terms of this order it extends no farther north than to township eighty-three.

The *triumphant* answer in the court below was: "Wolcott's case decides that."

I do not so understand it; I think the questions are different. That the statutes before the court are construed by different rules, and if in this I am wrong, I still claim that after this court had decided that the lands which the commissioner then withheld from market were not included in the grant, the reason of the order ceasing the order itself would cease.

In the division of my points under this head, I have said if any evidence were necessary it is shown that the lands were not reserved. The testimony of the register of the land office at Fort Dodge is, that he had never seen and had not been able to find any order reserving or withholding these lands, except the temporary one on an account of the railroad grant.

THE CERTIFIED LIST.

A portion of what I have said above will equally apply to the questions here presented but I wish to stand mainly upon the

ground, that to whatever force the lists may have been entitled upon the questions before the court in Wolcott's case upon the questions now here, they cannot be held to create a reservation.

1st. They were designed as acts of transfer, the purpose was to part with the title not to retain it.

2d. This court has decided that the power of the officers of the department, under the act of 1846, was limited to making partition of the lands *embraced in that grant.*

3d. If they were of force prior to the decision of this court, in Litchfield's case, the effect of that decision was to declare them null and void.

4th. Congress, by the joint resolution of 1861, declared them improperly issued.

The claim of validity is supported by no argument except that, which asks this court to give to acts designed for one purpose, an effect directly the reverse, while it is opposed by a total want of authority, by a judicial decree of nullity, and by a Congressional act.

I ought, perhaps, to say something before leaving this branch of the argument as to the notice No. 661. Great stress was placed upon this notice. I think it can be answered in very few words.

1st. Defendant's entry was allowed April 10, 1860. This notice is dated May 18th 1860.

2d. There was no evidence that it was ever brought to the knowledge of the register of the Fort Dodge land district. On the contrary the register testifies that he was unable to find any such notice.

I am unwilling to weary the patience or to consume the time of this court by a separate consideration of the remaining papers read in evidence by the plaintiff, they are all of that class which I have already said I thought to be incompetent. Some of them are mere opinions as to what should have been the construction of the original grant, others are letters written by parties having no power over the lands, and representing in no way either the

federal or state government, and some of them were written after the defendant's rights accrued.

I did not consider it necessary to except separately to each of these papers. I selected one as a representative of a class, and took what I supposed to be a proper exception to that.

Record, page 183.

Assuming that it shall be found that there was at the time of the defendant's entry, a reservation in fact of the land, upon the legal question presented,

I submit—

1st—That it was not a reservation for any *purpose* of the United States within the meaning of the pre-emption laws.

2d—That when a reservation is made by the department of the government which has jurisdiction over the public lands for the purposes of sale, it is competent for that department at any time to allow pre-emption entries.

3d. When land is reserved under an erroneous construction of a grant, which is subsequently determined not to embrace it, it still remains subject to pre-emption.

Upon the argument, counsel cited a great number of cases upon the proposition that reserved lands are not subject to pre-emption entry.

To assume the negative of this general proposition would be little less than asking this court to disregard the statute. I shall not do so. I maintain that it is not *universal*, and my purpose will be—and I ask the indulgence of the court—to ascertain the extent of the rule. I think it will be found to be this: When land is properly reserved by another department of the government, *for the use* of that department, it is not competent for the department of the interior to sell the land so reserved, that no case can be found in which this court has held that it is not competent for the secretary of the interior to allow pre-emption entries of land once properly in market, which he had previously reserved or withheld from sale.

I hope that I may save the the time of your honors by a synopsis of the cases—most of which are so familiar as in that way to be fully recalled—and a statement of the points established, as I *claim them* to be; certainly if I can not show either that they do not support the argument for the plaintiff, or that they do in some degree support mine I could hardly expect them to be read, especially as some of them are very lengthy.

Wilcox v. *Jackson*, 13 *Peters*, 498.

This was an action of ejectment brought against the commandant of Fort Dearborn for the recovery of premises which then were and for many years had been in the military possession of the United States, and upon which they had, at large expense built a fort, light-house, and other public improvements for the military, and commerce of the country.

The action was commenced in the circuit court of Cook county Illinois, in 1836. The military post was established in 1804. The plaintiff claimed title under one Beaubean, who settled on the quarter-section in 1817, thirteen years after a portion of it had been occupied as a military post, before the land was surveyed, and at a time when there was no law authorizing such settlement. The land was surveyed in 1821. October 1st, 1824, there was an express reservation by section, township, and range of the land by order of the secretary of war; the pre-emption law was passed May 29, 1830, and on the 7th of May 1831, Beaubean applied to the register to be allowed to prove a pre-emption settlement upon the land, and was informed that it was reserved for military purposes.

February 12th, 1835, the President of the United States proclaimed certain lands in that district, the proclamation containing the following clause: "the lands reserved by law for the use of schools and other purposes, will be exempt from sale." May 28th, 1835—I know these dates are tedious—Beaubean renewed his application and his entry was allowed. February 6th, 1836, he conveyed to the plaintiff's lessor. The department *refused* to issue a patent. By a statute of Illinois, the certificate of the register and receiver is sufficient evidence of title, as against all persons except the holder of a patent. The decision of the circuit court was in favor of the defendant. Upon appeal to the Supreme Court of Illinois, that judgment was reversed and a writ of error was sued

out, at the instance of the United States as the real party in interest, and the judgment was reversed by this court.

I suppose the case to decide two questions only.

1st. That when land is appropriated by order of one of the departments to public use, under a law authorizing such appropriation, it is not subject to pre-emption entry.

2d. That whatever may be the effect of the Illinois statute as a rule of evidence in the courts of that state, in the courts of the United States, the certificate of the register and receiver is not sufficient evidence of title. I think the points of distinction too manifest to require argument, and should not have felt at liberty to state the case with so much particularity, had not each of the several counsel for the plaintiff, upon the argument below, said again and again, as though the strength of the assertion depended upon the number of times that it was repeated, that the *cases were precisely alike.*

Conceding for this point of the argument the question of reservation, it seems to me, that to say, that one can defend his possession under a patent issued by the authority which had made the reservation is not *precisely* the same, as to say that one to whom a patent had been refused could upon a certificate which this court does not recognize as even competent evidence of title, maintain ejectment against the armies of the United States.

Chotard and others v. *Pope and another*, 12 Wh. 586.

The complainants claimed title under an act of Congress, passed May 8th, 1820, granting to the representatives of Henry Willis, the right to enter in any land office in Mississippi or Alabama, thirteen hundred acres of land. Under this act, they applied to to the register to be permitted to enter the site of the town of Claiborne, in the State of Alabama. The land had been previously appropriated for a town site. By an act of Congress, passed April 24th, 1820, it was declared that all lands appropriated for certain purposes, among others for town sites, should be excluded from entry. The register refused to allow the entry, and the bill was filed to compel him to allow it.

I think the cases differ in this—in that, the reservation was made by act of Congress, the secretary had no power in the premises. The entry was refused because the land was reserved by law. In this it was wholly in the discretion of the secretary, and he allowed the entry for reasons that he deemed sufficient why if the land had been previously reserved it should no longer continue so; I think too that it does not follow because this court would not compel the secretary, or register, to allow an entry, that it would hold it void if it had been allowed. I do not understand that this court has ever held that it is within its jurisdiction to control the heads of the departments in the performance of official duties, which partake in any degree of a judicial character.

Hoofnagle and others v. *Anderson*, 7 Wh. 212.

This was a suit in equity in the circuit court of the United States, for the district of Ohio, to compel a conveyance of a tract of land of which the defendant held the legal title.

The defendant claimed title under a patent issued by the State of Virginia, October 9th, 1804, founded on a military land warrant, issued May 29th, 1783. The complainants claimed an equitable title under an entry made May 28th, 1806, and that the land warrant upon which the defendant's patent was obtained was issued by fraud or mistake. Without considering the questions which the complainants sought to litigate, the substance of the decision is that a patent cannot be set aside at the suit of a citizen *who had no legal or equitable right prior to the inception of the title* under it, that if fraudulently obtained, it might be set aside at the instance of the government, but that it could not be done at the suit of a citizen having no other right than that which is common to all, that of entering the public lands, and that a title under a patent dates from the entry.

It will be remembered that I am now examining the cases cited by counsel for the plaintiff, in the circuit court. It is submitted that the bearing of this case upon the question in controversy, is not against, but favorable to the defendant. I do not see that the case touches upon the question of reservation, but the principle which it establishes, applied to this case, is, that the plaintiff's rights must have existed prior to April 10th, 1860, the day of defendant's entry; it is conceded that they did not.

Jackson ex de. Lazy Anderson v. *Clark and another*, 1 Peters, 628.

I refer to this case, only, because my purpose is to show, that the cases heretofore relied upon by counsel do not sustain their positions. I am not able to understand upon what theory this case was cited, unless it is that the weight of the argument is supposed to depend rather upon the number of cases cited than upon their pertinency.

The case presents these facts:

The land was a portion of the territory ceded by Virginia to the general government in 1784. The deed of cession from Virginia to the United States, reserved the right to locate the then outstanding military land warrants of Virginia, and parties holding such warrants were authorized to locate them, and to cause surveys to be made. In 1787, Congress passed a law authorizing the sale of lands north of the Ohio river, but in terms excluding all lands for which a patent had been issued, or which had been previously surveyed. The action was ejectment. The plaintiff claimed title under a patent issued by the United States, November 10, 1824. The defendants relied upon an entry and survey under Virginia land warrants, made October 10, 1796. To avoid the effect of this entry the plaintiff offered to prove that the warrants upon which the entry was made were satisfied before that entry; and the sole question in the case was, not whether the land was reserved, when the plaintiff obtained his patent, but whether the act of Congress embraced cases of *irregular* entries.

Ch. J. Marshall says: "At the time of the passage of the act of Congress of 1807, it was well known that the military district abounded with defective entries and surveys, which might be defeated by entries made in more quiet times, and with better knowledge of the requirements of law. Had there been none but valid surveys no act of Congress would have been necessary, such entries required no legislation, and the statute was truly an enactment of repose."

Nearly thirty years before the plaintiff obtained his patent, the land was entered under warrants claimed to be valid, nearly twenty years before, the entry so made was confirmed by act of Congress. I submit that the question was, not whether the

land was reserved from sale at the time of the plaintiff's entry, but whether it then belonged to the United States. The court held that it did not. I do not see how the case supports the plaintiff's argument.

Meigs v. *McClung's Lessee*, 9 Cranch, 11.

It seems to me that counsel must have cited this case without reading it; they have certainly mistaken its spirit, it is very strongly against their line of argument. Instead of showing that this court has given to the word *reserved* as broad a meaning as possible to exclude the claims of the settler, it shows that the course of decisions by which it has given to all statutes relating to the occupant of the soil, the most liberal construction to support his claims, had its beginning at a very early day.

The question upon this point was whether the word *reserved* was to be regarded as the language of the United States, and if so, whether it necessarily implied that the title was in that party.

The land was a portion of the territory ceded by the State of North Carolina to the United States, the plaintiff in the court below claimed under a patent from that state before the cession.

The case turned upon,

1st. Whether the Indian title had been extinguished.

2d. Whether the premises were a portion of certain "lands reserved for the particular disposal of the United States."

All of the land ceded was *above* the mouth of the Highwassee river; the land reserved was, by the terms of the treaty, *below* the mouth of that river. It was claimed by the defendant below, that the reservation was in fact intended to be of lands above the mouth, and that the word below was used by mistake. The argument was based in part upon the meaning of the word reserved in the clause of the treaty above quoted.

The Chief Justice says: "It is said that the lands reserved for the particular disposal of the United States, must necessarily be a part of the ceded territory, or the term would not aptly express the idea of the party. The court cannot accede to this reasoning; the treaty is the language of both parties, each having lands. The words are the words of both parties, and the term might without any strained construction be applied to the

lands of either. No *great* violence is done to the known import of the term *as used in the treaty*, if it be considered equivalent to the words set apart."

The argument sought to be drawn from the case as applied to the facts of this case is, that these lands were *set apart* by the certified list of the secretary of the interior to satisfy the supposed grant of 1846, ergo, reserved from the operation of the pre-emption laws. In the case cited the court shows a willingness to give a very liberal construction,—almost to do some "violence"—to the known import of the term, to protect the claim of the holder of a patent, that is hardly an authority for a "strained construction," I submit, for the purpose of defeating the claim of another holder of a patent.

Clements v. *Warner*, 24 How. 394.

September 20, 1850, Congress passed an act granting lands to the State of Illinois for the construction of a railroad. The lands in question were withdrawn from market by the secretary of the interior, to enable the state to make the selections, which were completed in 1852, and the remaining lands were restored to market. In October, 1855, Clements settled upon the land under the pre-emption law; in November, 1855, Warner's assignor purchased it at private sale; Clement's entry under his settlement was made in November, 1856, and upon which, at the time of the commencement of the action, a patent had been issued. Warner, as the holder of the receiver's certificate, filed a bill to quiet his title.

The claim made by the complainant seems to have been that lands which had once been reserved, upon being restored to market became subject to private entry, but that they still retained their character as reserved lands within the meaning of the pre-emption law of 1841, a position which is, it seems to me, wholly untenable independent of the authority of this case. I do not see that the opinion bears upon any point involved in this case. Its spirit is entirely favorable to the defendant, it says:

"The policy of the Federal Government in favor of settlers upon public lands has been liberal, it recognizes their superior equity to become the purchasers of a limited extent of land comprehending their improvements, over that of any other

person. * * * The actual settler is the most favored of the entire class of purchasers, no act of Congress has defined the meaning of the term reserve as applied to lands in these various acts * * * and the liberal policy of Congress in favor of the actual settler is better accomplished by a restrictive rather than extensive interpretation of the exceptional clause in the act.

Perhaps I have too much mutilated this opinion; I have not perverted it. The portion quoted in the printed brief of counsel upon the argument in the circuit court, was so used as to indicate that it was the purpose of this court to give to the word *reserve* as broad a meaning as possible to exclude the right of preemption. I understand the spirit of the decision to be directly the reverse.

The United States v. *Stone*, 2 *Wallace*, 525.

The lands in question were patented to the appellant as the assignee of certain floats issued to the chiefs of the Delaware nation "for long and faithful services." The patents were issued in 1861. In 1862 the secretary of the interior decided that they had been improperly issued and directed them to be cancelled. "However to proceed rightly, the United States filed this bill"

The court say:

1st. That the land claimed by the appellant never was within the tract allotted to the Delaware Indians.

2d. That it is within the limits of a reservation legally made by the President for military purposes. The case was cited to two points:

1st. That reserved lands can not be sold by the department of the interior.

It is not claimed that lands reserved as these were can be.

2d. "That one officer cannot *undo* what his predecessor has done."

No such question was involved in this case, but if there had been I have no doubt the court would have so decided, but I wholly deny such a decision would justify the application which was

sought to be made of it to this case, which was that the certified lists improperly issued under the construction at that time given to the act of 1846 had the *force of patents*, therefore the secretary could not subsequently issue a patent for the same land, until the lists were judicially cancelled.

To which I answer, the lists have not the force of patents. The land was not included in the grant, the case is directly within the act of Congress of August 3d, 1854, which declares that in such cases "the lists shall be perfectly null and void, and no right, title, claim or interest shall be conveyed thereby," and further that no judicial proceedings could be maintained against *a state* to annul such lists. I see nothing in this case to indicate that this court holds that the *opinions* of a secretary are immutable, and that an erroneous ruling once promulgated must continue the law of the department until judicially set right.

Counsel cited *Minter et al* v. *Crommelin*, 18 *How.*, 87, and quoted this language:

"A patent issued to a purchaser may be set aside and its validity rebutted even in an action at law, when the lands were reserved from entry."

The cases from which I have quoted so freely are mostly those which were cited by counsel for the plaintiff in the court below. My purpose has been to show that upon this question upon which they hold the affirmative, the cases do not establish the rule so broadly as claimed. I have not supposed it to be necessary to submit arguments to this court, to maintain a negative while it was incumbent upon the other side, to establish the affirmative. We have at no time claimed that there was *no such rule*, as that expressed by the language above quoted. Our position is that the rule does not embrace this case. That the language of this court however general, is to be taken with reference to the facts of the case in which it was used—a rule certainly sufficiently elementary to require no argument—that the law is, that reserved lands are not subject to pre-emption entry, is as well established by one case as by fifty, indeed no authority beyond the statute itself is necessary to establish that. Cases beyond that can properly be cited, only for the purpose of showing, that either directly, or by their principles, they hold the rule applicable to a case like the one under consideration. I can hardly imagine anything

more remote from this than the case from which this language is broken, and made to do service in a line of argument directly the reverse of the course of thought which the honorable judge, who used it, was pursuing, when he used it. While he recognized this general rule, his purpose was to show that the evidence in the case then being considered was not sufficient to overcome the presumption created by the patent, that it did not negative all of the facts the existence of which is presumed by the patent. If the case is not a direct authority, its whole spirit and tenor are strongly favorable to the defendant in this action.

The premises were a portion of an Indian reservation. March 8th, 1817, Congress passed an act to carry into effect the treaty made with the Creek Indians at Fort Jackson. The act contained a general reservation. Certificates were issued to the chiefs of the tribes by township and section. The defendant in possession, claimed under an assignment of one of these certificates. The plaintiff in the court below, who was also the plaintiff in error, claimed under a pre-emption entry made in 1834, and a patent subsequently issued.

The court say: "The presumption is that the patent was regularly issued. It is *prima facie* evidence of itself that all the incipient steps had been regularly taken before the title was perfected by patent." Then follows the language cited by counsel, and the opinion proceeds: "But if the executive officers had no authority to issue the patent because this land was not subject to entry and grant, then it is void, and the question is *whether the defendant has proved the want of authority.* The law provides that no land reserved to a chief warrior should be offered for sale, but if he abandoned it, it could *be brought* into sale. This fact was to be decided by the Secretary, and we are bound to *presume the necessary order*, the rule being that the patent is evidence that all previous steps had been regularly taken, to justify its issuing, and one of these steps being to ascertain *whether the land had been ordered into market*, the question of reservation depending upon the existence of certain facts under the law, *we are bound to presume the necessary order.*"

Assuming that a reservation of the land in controversy in this action can be *figured out* from the mass of correspondence given in evidence—which I claim was entirely incompetent—prior to

the decision of this court in 1859-60, if after that decision an order was necessary to bring the land into market, this case is a direct authority for presuming such order, and the existence of all other facts necessary to uphold the entry on the 10th of April, 1860.

Easton v. *Salisbury*, 21 How. 426, *Stoddard* v. *Chambers and others*, 2 How. 284, and *Trustees of Vincennes University* v. *The State of Indiana*, 14 How. 268, were all cases where the land was reserved by act of Congress, and I have said so often—what perhaps I ought not to have said at all—that we do not claim that an officer of the department can repeal an act of Congress, that I feel almost ashamed to repeat it.

Without further trying your honors' patience by multiplying words or by citing authorities which at best bear but remotely upon the question, I submit—

1st. That no reservation was *in fact proved.*

2d. If the evidence shows a reservation to have existed during the conflict of opinion, among the executive officers, at any time prior to the decision of this court in Litchfield's case, it does not show that it existed subsequently to that time, and *prior to defendant's entry.*

3d. That land reserved by the department of the interior may be at any time restored to market. If an order is necessary for that purpose, the patent presumes that it was made.

4th. That this case is neither within the terms nor the spirit of the decisions of this court which hold that reserved lands are not subject to entry.

5th. If all of these questions shall be held against us, then I submit that the case comes within the following act of Congress.

AN ACT to extend pre-emption rights to certain lands therein mentioned.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled: That the pre-emption laws of the United States, as they now exist, be and they are hereby extended over the alternate reserved sections of

public lands along the lines of all the railroads in the United States wherever public lands have been or may be granted by acts of Congress; and that it shall be the privilege of the persons residing on any of said lands to pay for the same in soldiers' bounty land warrants, estimated at a dollar and twenty-five cents per acre, or in gold and silver, or both together, in preference to any other person, and at any time before the same shall be offered for sale at auction. *Provided*, That no person shall be entitled to the benefit of this act who has not settled and improved, or shall not settle and improve such lands prior to the final allotment of the alternate sections to such railroads by the General Land Office; and provided further, that the price to be paid shall in all cases be two dollars and fifty cents per acre, or such other minimum price as is now fixed by law, or may be fixed upon lands hereafter granted; and no one person shall have the right of pre-emption to more than one hundred and sixty acres. *And provided further*, That any settler who has settled, or may hereafter settle, on lands heretofore reserved on account of claims under French, Spanish or other grants, which have been or shall be hereafter declared by the Supreme Court of the United States to be invalid, shall be entitltd to all the rights of pre-emption granted by this act and the act of fourth of September, eighteen hundred and forty-one, entitled "An act to appropriate the proceeds of the public lands and to grant pre-emption rights," after the lands shall have been released from reservation in the same manner as if no reservation existed.

Approved March 3d, 1853.

It seems to me that this act was designed to provide among others for just this class of cases. If it is answered that it could not be intended to embrace Congressional grants, because they could not be invalid, I reply,

1st. It is not the *grant* which is to be declared invalid, but the *claim under* it, or—if it does not sound more like the school master than the lawyer—*which*, relates to *claims*, for its antecedent; any other construction would render the word "claims" wholly superfluous. To receive the construction claimed, the law should read, "lands heretofore reserved on account of * * * French, Spanish or other grants which have been or shall be

hereafter declared by the Supreme Court of the United States to be invalid. The construction which I claim is more in accordance with the obvious spirit of the law; it is not only matter of public history, but it is a part of the history of this court, that lands were often reserved on account of claims under French and Spanish grants, which were subsequently found not to be embraced within the limits of the grant. Parties, making pre-emption claims upon lands so situated, by the construction claimed by counsel for the plaintiff, would be excluded from the benefit of this act; and if counsel are right upon their main proposition, that lands so reserved, are not subject to pre-emption, independent of the act, it would lead to the absurdity of holding that when the *grant* is held invalid the pre-emption claim should be allowed, but when the *claim under* the grant is held not to be embraced within the limits of the grant, the pre-emption claim shonld be rejected.

I submit that, either pre-emption entries of lands, reserved under a mistaken construction as to the limits of a grant should be allowed without the act, or that they should be allowed because of the act. In either view the defendant's entry should be sustained under the first, because it is competent for the secretary of the interior, at any time, to allow entries of land so reserved; under the second, because this court had decided prior to the defendant's entry that the land was not within the limits of the grant of 1846.

2d. If the legal effect of the decision of this court, that the land in question was not embraced in the grant of 1846, was not strictly that of a decree, directly declaring the proceedings under it void, as without authority of law, still the logical sequence from the principles of that decision is, that the court will when the proper parties are before it as in this case, declare those proceedings void, else the incident will be sustained while the principal is held void.

3d. As to the premises in question—to adopt the language of this act—the grant of 1846, was "declared by the supreme court of the United States to be invalid.".

See Letter of Thompson Sec. Rec. p. 57.

SIXTH.

The only remaining question which I desire to present is—

That so long as these several grants remained unadjusted, it was competent for the state of Iowa, as the grantee named in all of them, to adjust them with the general government. That the settlement of May 21st, 1866, between the state and the department of the interior, by which the state relinquished all claims to the particular premises in question under any of these grants and received other lands in lieu of them is binding and conclusive upon all parties claiming under the state.

It would hardly be necessary in any court, to cite authorities to the proposition that this court will not interfere with the regulations which the departments may adopt for their convenience in the transaction of the public business, unless their effect would be to deny or defeat some legal right.

Among those adopted by the department of the interior is one that in the adjustment of grants to the states, the general land office will transact the business directly with the state authorities and with them alone.

[*Lester's L. L. p.* 540.
Kendall v. United States, 7 *Wallace*, 113.

Assuming that the joint resolution of 1861 did not *proprio vigore* vest the title to the specific land in question in the state, it would be necessary before either it or its grantees could maintain any action in the courts that the lands embraced in the grant should be ascertained and certified.

I suppose this would be the law were there no statute upon the subject, but as I understand the act of Congress of August 3, 1854, it was passed to settle a question which had given rise to some discussion as to, at *what time* title vested under general grants of this kind.

The act settles two questions—

1st. All certificates improperly issued before its passage are declared null and void.

2d. That no title shall vest under grants which do not particularly describe the premises granted, in other words which do not

by their own terms make *partition* between the lands granted and those retained, until lists of the lands so granted shall be certified by the commissioner of the general land office.

Assuming that the joint resolution of 1861 does not so describe the subject of the grant as *proprio vigore*, under the rule as I claim it to be, to vest the title so that the grantee may maintain ejectment upon the act alone, some adjustment was necessary.

If argument were required to show that either the rule of the department was not legally objectionable, or to support its propriety, perhaps we could scarcely present a stronger one than that which the evidence in this case furnishes. By the certificate of the Governor in response to the letter of the commissioner asking for information to enable the department to make out the proper lists, it appears that there were, in addition to the conveyances to the Demoine Navigation Company, six hundred and ninety-seven conveyances to individual purchasers. Scarcely a stronger argument could be made for the establishment of any rule than the inconvenience which would result from a different one in a case like the present.

I have not been able to find anything in the reports of the decisions of this court upon the particular question here presented, but the absolute impossibility of carrying on the business of the government without some such regulation is so obvious, that an extended argument would be little less than disrespectful to the intelligence of this court. No *argument* by way of reply to my position was attempted in the court below. Counsel thought it sufficient to say that "It was too ridiculous to require consideration." I hope this court will not look upon it in that light.

I then thought, and still think, counsel would be exceedingly troubled to show, either upon principle or by the decisions of this court, that a grantee claiming under a grant which requires adjustment, before the specific subject of the grant can be known, can convey any title or interest before adjustment, which either the courts or the departmental officers are bound to recognize.

The officers of the department took this view of it, and applied to the governor for the information necessary to enable them to discharge their duty. The state took this view of it and appointed first Mr. Kilbourne, and afterwards Mr. Harvey for the purpose of doing just what was finally done. It seems to me that

two rules, too plain in principle and too well settled by the decisions of this court to require discussion, dispose of the whole question here presented.

1st. That no action can be maintained against one in possession unless the lands granted are specifically described in the act making the grant, or have been ascertained by the executive officers of the government.

2d. That when anything is to be done to ascertain the particular lands to which the grant attaches, it cannot be done by the *ex parte* action of the grantee.

This is almost the language of this court repeatedly used in reference to claimants under New Madrid certificates.

I have already said under a former division of my argument all that I desire to say upon the question as to whether this grant is of a character to require executive action; I now assume that it is, and desire to confine myself to the question as to who is the proper party to *do the business;* I am unwilling farther to protract the argument.

I submit:

1st. That the grantee named in the act is the only party which the department is bound to recognize.

2d. As a consequence of the above, if not implied in it, that the validity of the acts of the party named in the grant, is in no way affected by his prior assignment or conveyance of his interest in the subject of the grant.

If this be true, it was competent for the State of Iowa to appoint a commissioner for the purpose that it did. If it has broken its faith with its prior grantee—which I deny—his relief is not as he supposes in asking the courts to disregard the settlement, but by application to its legislature to do him justice. No question was made but that the act appointing the commissioner in *terms* authorized him to do what was done, but it was claimed that neither that act, nor the one of March 31st, 1868, ratifying the settlement, was of any force as against the plaintiff; the reason assigned was because *they deprive him of vested rights.*

Counsel who argued this branch of the case, did not in direct terms place his objection to the law upon the ground that it was unconstitutional. He took a more airy flight and invited me to accompany him upon a voyage through the regions of political philosophy in quest of some "higher ground" upon which he asked the circuit court to place its decision. Politically, I suppose that doctrine has had its day, but I am not aware that the courts of this country have ever recognized it as a rule of judicial action.

The constitutional argument, I suppose to involve several errors.

1st. That it is within the jurisdiction of the circuit courts of the United States to declare a state law unconstitutional simply because it violates some provision of the state constitution, unless the state courts shall first have passed upon the question and so held.

2d. That a law is unconstitutional simply because it deprives a citizen of vested rights.

3d. That before the recent amendment to the Federal Constitution it contained any prohibition upon the states to pass laws which would deprive the citizen of his property without due process of law.

4th. That the facts in this case show that the plaintiff had any vested rights at the time of the passage of either of these laws.

To suppose that any of the legal questions embraced in these propositions require argument before *this* court, would imply that I am more of a stranger to its decisions than I am willing to confess myself. I hope I may be pardoned, however, for referring to the language of two or three of its decisions:

"A federal court has no authority to declare a state law void because it conflicts with a state constitution."

Jackson v. *Lamphire*, 3 *Peters*, 280.

"This court has no right to declare a state law void because it divests antecedent vested rights."

Watson v. *Mercer*, 8 *Peters*, 88.

To the claim that the law was *retrospective*, I quote—

"The constitution does not prohibit the states from passing retrospective laws generally, but only *ex-post facto* laws * * and it has been solemnly declared by this court that that phrase does not apply to civil laws.

[*Id.*

The cases in this court, which hold that unless a state law comes in conflict with the federal constitution, it is not within the jurisdiction of the federal courts to declare it unconstitutional, are very numerous, and I know of no other ground upon which a court can refuse to follow what is plainly written in the statute.

I submit that it is "plainly written" in the statute appointing the commissioner that he should adjust with the general government this particular grant. The joint resolution grants to the state only such land as had been previously sold, and was then held by *bona fide* purchasers under the state, so that unless it operated upon such land, the statute could have no force so far as it related to the grant made by that resolution. The act farther declares that the lands so granted "have not yet been certified or approved to the state," upon which I base two propositions:

1st. That the legislature did not regard the joint resolution as having the effect claimed for it by counsel in this cause, namely, that it confirmed the certificates issued under the act of 1846, and which it declared to have been improperly issned.

2d. That it did not regard the state as a passive medium, to be used without its consent, for the *passage* of a title over which it had no control.

I think it was the understanding of the legislature as well in the passage of this act, as in the acceptance of the grant made by the joint resolution, that the state as grantee, or trustee, if it be more agreeable to counsel, should have a right to determine, or, at least, a voice in determining, who the *bona fide* purchasers were who were indicated by the resolution.

It was then well known in Iowa that several thousand acres of the land embraced in the deeds of the Governor had been settled upon by parties who had made large improvements, and who

either, like the defendant held under patents from the United States, or who had made their improvements in good faith and with the full expectation of obtaining title from the general government. It can hardly be presumed that the legislature intended to leave the parties so situated to deal with a foreign corporation whose claim either legal or equitable to any portion of the land above the Raccoon Fork has been *notoriously* denied in Iowa ever since the conveyance by the governor. It is true that a former register of the state land office had certified that certain lists were "a true and exact exemplification of the sales and records of patents made out for the Des Moines river grant," but the department never acted upon that certificate, or in any way recognized it as sufficient evidence, that the grantees named in it were *bona fide* purchasers from the state. It was because the department had constantly refused to act upon it that first Mr. Kilbourne, and afterward Mr. Harvey, were appointed to procure an adjustment of the grant.

By the settlement, as appears, both by the statement of Mr. Kilbourne and the report of his successor, the whole area of the Des Moines river grant above the Raccoon Forks was 558,004.06 acres. Under the former construction of the grant of 1846, there had been certified 271,572.24 acres, of which 212,741 acres were conveyed by the governor to the Demoine Navigation company. Upon the settlement both the department and the commissioner treated the old certificates as null, and proceeded to ascertain what part of the land within the limits of the grant belonged to the general government at the date of the passage of the last act —July 12, 1862. Whether they fell into error, or not, in relation to the railroad grant, does not, as I regard it, affect the questions now presented. In order to ascertain the quantity to be certified as indemnity under the proviso of the act, they first set apart as "lands sold and patented, and in process of patenting" 44,348.80 acres second, for pre-emption claims prior to the act of July 12th, 1862, 13,993.77 acres. The land in question having been patented October 15th, 1863, was embraced in the first item, after making all deductions for lands otherwise disposed of by the United States, there remained as lands in *place* falling to the state under the joint resolution of 1861, 44,838.34 acres; for this land, new certificates were issued. The lists are a part of the evidence in this case, they do not embrace the defendant's land. Lists for the indemnity lands were properly certified to the state.

I state these particulars thus fully to show that *the State* did all that was in its power in this settlement to protect parties situated like the defendant. If the state had the power it has given the necessary protection. I am not about to renew my argument to show that it had the power. The judgment from which this appeal is brought necessarily holds:

1st. That the state had not this power.

2d. That it was competent for that court to hold the attempted exercise of the power null and void.

I have given my reasons for supposing that upon both of these questions the court was in error. That these questions were directly involved, the counsel for the plaintiff did not dispute. Unless it is disrespectful to a court to appeal from its decisions, it cannot be so to state the true condition of the law upon the questions presented. I submit that this judgment, so far as the present question is concerned, is not only without precedent, but is in direct opposition to an unbroken course of decisions beginning almost with the history of this court, and coming down to the present time, and constituting a body of judicial thought which has done more to secure to this court the high place which it holds in the estimation of the American bar than any other portion of its decisions. As was said by a celebrated British lawyer of a still more celebrated British judge, one can hardly read these decisions without thinking "of the awful form and figure of Justice." It was here that Chief Justice Marshall did most for the jurisprudence of his country, and that his great mind shone to its best advantage.

His language could scarce be better suited to the facts of this case had it been before him. Even in cases where there is no question of jurisdiction, he says:

"To pass upon the constitutionality of a state law is a question of high responsibility, seldom if ever to be exercised but in cases free from doubt. * * The incompatibility must be clear, decided and inevitable. * * This court cannot be insensible either to the magnitude or the delicacy of the duty. * * The court has often expressed the cautious circumspection with which it approaches the consideration of such

questions, and declared that in no doubtful case would it pronounce a legislative act to be contrary to the constitution."

I do not suppose that the case in which this language was used is not *very* familiar to the members of this court, but when one finds ideas suited to his line of argument, expressed with sententious force by one speaking as with authority, it would argue rather boldness than good taste or judgment to attempt to clothe them in a new dress.

Perhaps I ought not to leave entirely unnoticed, the claim made by the counsel for the D. M. N. Co., in *Wolcott's Case*, that "the State of Iowa had done all in its power to protect the titles of that company, and no act or deed or word of the State or any of its officers can be found, showing any wish to invalidate them."

I do not so understand it. On the contrary, the subject has been most fully and *violently* discussed by all classes of men, public and private, and other than the members of this company, and its grantees, I do not believe that *one* man can be found in the State of Iowa who takes any such view of the matter. The universal sentiment is expressed by a single sentence,—*It is a gigantic swindle.* The subject has been at different times and in various ways before the legislature. In 1862 it was before the Senate, and the committee to which it was referred, in their report, say: "The Demoine Navigation and Railroad Company is not entitled to any consideration at the hands of the general assembly." At the same session, a committee of the House in their report upon the same subject, say:

"This Company has made no such case as can be made for the settlers. Notwithstanding the pay it has received from the State, it has been a great injury to the State. It has received more pay than it should have received, without an acre of the lands above the Raccoon Fork, and in the opinion of the undersigned, it has no right to come before this General Assembly, attempting by its immense lobby influence, represented by the shrewdest men in the State of New York, and by its local lobby agents, to try to get the young State of Iowa again in its treacherous embrace."

In 1864 the subject was again before the general assembly, and a committee of the Senate say:

"It will be asked, if upon the title becoming perfect in the State, it will not inure to the benefit of its grantees, to-wit, the individual purchasers, and the Demoine Navigation and Railroad Company. We answer that it will not necessarily do so, except by our statute, a subsequently acquired title could only enure to the benefit of the former grantee, when that former grant was by a warranty of title. By our statute, section 2210, Revision 1860, that rule is changed, so far as to provide that any subsequently acquired title should enure to the former grantee to the extent of title purporting to be conveyed by the former grant. But even under this statute, no title to the lands conveyed to the Demoine Navigation and Railroad Company, by the conveyance made by Governor Lowe would enure, as we believe, to such Company, by reason of any after acquired title; because the authority for such conveyance was contained in the Joint Resolution of the General Assembly, approved the 22d March, 1858, and that resolution even if it had the force of law, which is questioned, only authorized the Governor to convey to said Company the right to all the lands granted by the Act of August 8, 1846, (the Act making the Des Moines River grant) "as fully as the State could have under said grant." Now if the state then had *no* right to said lands as the Supreme Court of the U. S. say it did not have, then of course it could not convey the fee, and although the conveyance made by Governor Lowe, expresses a conveyance in *fee-simple*, it is clear he thus far exceeded his authority, and all such excess must be void The Company was bound to know and did know what the agent's authority was, and of course can claim no more than such authority would give. It would get, then, no more than a bare quit claim, and as such, Governor Lowe's deed could only operate; and as such, that company will take nothing by the title to these lands now becoming perfect in the state.

"It will be seen that we recommend that the Demoine Navigation and Railroad Company, and its members, shall be excepted from the benefits of the act. Some of the undersigned believe that that company has already realized out of the proceeds of land sold, more than such company ever expended for the good of the state. They regard the settlement of matters expressed in resolution of March 22, 1858, as having been conceded by the legislature as a finality, and for the purpose of putting at

rest forever, the claims of said company, and the conveyance then authorized as the price of getting rid of the unpleasant importunities to which successive legislatures were subjected; and they are now unwilling to recognize any claim by such company upon either the state or any funds in the hands of the state. They do not consider such company a *bona fide* purchaser of the lands conveyed by the Governor, by authority of the resolution of March 22, 1858. They are also informed and believe that a great part of the sales made by said company since that day, have been made to individuals who were at some time members of said company. They could not recognize such a transaction as dividing up the lands between the different members of the company as in any sense a sale, and much less can they consider them *bona fide* purchasers."

At the first session after the execution of the deeds by the Governor, the judiciary committee of the House were directed to report on the validity of the joint resolutions of 1858. In their report, they say:

'Joint resolutions are not expressly recognized by the the constitution of this state, and in the opinion of the committee, a joint resolution, viewed as a law properly so called, has no force or validity; inasmuch as the style invariably used in such resolutions is a departure from the *style* strictly prescribed by the constitution itself."

Without further disturbing the history of the past, I submit that, so far from showing that the state has at any time, or in any way in which it was possible for a state to express its desire, indicate a wish that the claim of this company should be sustained, has uniformly declared it to be without any foundation either legal or equitable. It has and still does desire that the settlers upon these lands should be protected. Governor Stone in his message of 1866 uses this language:

"It was evidently the intention of Congress, in all these grants, to preserve inviolate the rights of *bona fide* settlers and allow them a fair opportunity to purchase at the minimum price, and the attempts now being made by these corporations to appropriate these lands *against the rights of the settlers*, are in my judgment *a manifest departure* from the spirit of the grants."

Nor did her representatives in Congress look at it differently.

When asking an extension of this grant in 1862, Mr. Wilson said:

"It is designed to confirm the arrangement already made with the settlers upon the land. I hope *therefore* the bill will pass."

I have not referred to these matters because I have supposed that they either would or ought to influence this court in its decision of the questions presented, but for the only reason that I did not feel that a claim which is not only entirely without foundation, but which is directly the opposite of the real facts, ought to pass uncontradicted.

This argument has extended much beyond my expectations. The amount of property involved in the immediate action is not large, but the decision of the questions involved will dispose of a large number of other causes. The controversy has been pending now more than twenty years. The original grant was in every respect a most unfortunate one; with upwards of three hundred and twenty thousand acres of land, embracing the most valuable and fertile portion of the state, absolutely nothing was done toward the accomplishment of the purpose for which the grant was made.

In Wolcott's case it is said that the Demoine Navigation Company had expended some three hundred and thirty thousand dollars upon the work at the time it was stopped. It is true that such a statement is contained in the certificate of the Governor. If this fact is material to the decision of any question presented in this case, I am not willing to concede that the Governor's certificate is either sufficient or competent evidence to establish it. At the time of the settlement the company received fifty thousand acres of land below the Raccoon Fork, about which there has never been any question, and forty-four thousand above to which there is no adverse claimant. Had we supposed the question of *consideration* could properly have been tried upon the hearing of this cause, we should have attempted to show that not one dollar was ever paid for the land. I did not, however, so suppose, and now desire to say only that there is no *legal evidence* that anything was paid.

Important as this cause is, I have been able to give to the preparation of this argument only the scattered hours left me by perhaps less important, but certainly more *importunate* duties. Nothing but the importance of as speedy a decision as possible would have induced me to submit the cause upon an argument prepared under circumstances most unfavorable to anything like a continuous and logical train of thought. I have designed to present all of the questions which I suppose could arise in reference to any of these lands except those known in Iowa as the Des Moines river school lands, which may depend upon evidence which could not be given in this cause.

It has been suggested to me by gentlemen in the profession, familiar with these questions, that there are other questions which I have not presented, namely:

1st. By the constitution of Iowa it is provided that "the General Assembly shall not locate any of the public lands which have been or may be granted by Congress to this State, *and the location of which* may be given to the General Assembly upon lands actually settled without the consent of the occupant.

2d. The statute of limitations.

I do not think these questions involved, and only present them for the reason above suggested.

The defendant has made valuable improvements upon the premises. I did not suppose this the proper time to present the questions which may ultimately arise in reference to that subject, in case of a decision adverse to her title. While the settlers upon these lands, should the title be held against them—would be entitled to every consideration which the kindest heart could give them, they have not supposed that this court could *wrest the law.* Much was said upon the argument in the court below, which perhaps I ought not to allude to here—that we were begging, pleading for sympathy, the only ground for which was, that I said that, while between the two corporations whose titles were before the court in Wolcott's case, it was a question of strict construction, this court had often held that the pre-emption laws should be humanely and liberally construed in favor of the settler. In asking for such a construction of the law in this case, we did not suppose that we were begging for that humanity which is above

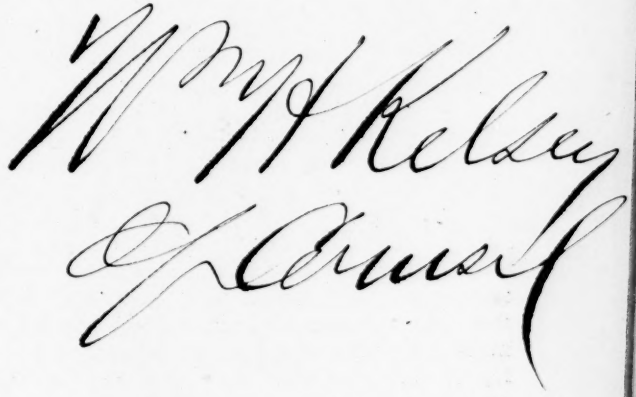
the law, if indeed there be any such, but thought that we were entitled respectfully to demand the protection of that, which is a part of the law. I did not then, however, and do not now think it necessary to put this case upon any such ground, but should others fail, I still say that this court has taught us to believe that we may stand upon this.

While suggesting this rule in this way, I wish to put the case mainly upon the ground *that the plaintiff has failed to show either a legal or an equitable title superior to the defendant's.*

The final sentence of the argument of Mr. Litchfield, counsel for the defendant in error in Wolcott's case, so perfectly expresses the consequences which would follow a decision adverse to the defendant in this, that I hope I may be pardoned for quoting it in closing this argument. "The title of one half of the property through a region of eight hundred square miles would be upset in order that a little more may be added to a donation which is already most munificent, but which is yet too small to satisfy this greedy corporation."

I have only to beg pardon for having consumed so much of your honors' time for which I hope, what I think the importance of this cause may be received at least, as a partial apology.

GALUSHA PARSONS.



Supreme Court of the United States.

No. 397. DECEMBER TERM, 1869.

HANNAH RILEY,

Appellant,

versus

WILLIAM B. WELLES,

Respondent.

ARGUMENT FOR RESPONDENT.

EDWIN C. LITCHFIELD.

Of Counsel for Respondent.

New York:

EVENING POST STEAM PRESSES, 41 NASSAU STREET, COR. LIBERTY.

1870.

Supreme Court

OF THE UNITED STATES.

HANNAH RILEY, Appellant, *vs.* WILLIAM B. WELLES, Respondent.	No. 397, Dec. Term, 1869. Argument for Respondent.

This action was brought by Welles, a citizen of New York, against the defendant, Riley, in the District Court of Webster County, Iowa, to quiet the title to the North West Quarter of Section 33, Township 89, North of Range 28 West, and to remove a cloud by a pretended pre-emption certificate and patent to the said defendant; and was subsequently removed to the Circuit Court of the United States for the District of Iowa.

Welles, the plaintiff in the Court below, holds the title under the State of Iowa, and its grantees.

The State derived title from the United States under a grant made by the Act of Congress of 8th August, 1846, to the then Territory of Iowa, to aid in the improvement of the Des Moines River; and under a Joint Resolution of Congress of 2d March, 1861; and an Act of Congress of 12th July, 1862, extending the grant as originally made.

Riley, the defendant, claims title under a patent dated 15th October, 1863—based upon pre-emption entry, proofs, and payment, made 30th May, 1862. She alleges settlement by her husband in 1855, and that he having died in 1857, she subsequenty applied to be permitted to make pre-emption.

The case involves the validity of the title of the State of Iowa, and its grantees, under the aforesaid Act of 8th August, 1846, and the confirmatory Acts of Congress: and the respondent supposes and claims that the question of title so involved was conclusively settled by this Court in the case of Wolcott *vs.* The Des Moines N. & R. R. Co., in 5 Wallace, 681.

But the appellant attempts to distinguish this case from that in several particulars; and has given in evidence sundry legislation and proceedings of the State in 1866 as affecting the case; and has presented, elaborately, his view of the facts and of the law, to which it is necessary to reply.

The counsel refers frequently to what occurred in the Court below, as to cases cited, and argument used—in answer to which it is only necessary to say that the undersigned was not present at that trial, and took no part therein, but derives his knowledge of the case solely from the record.

It is of great importance, not only to the parties in this case but also to a large section in the State of Iowa, that the question of title involved should be determined fully, and, if possible, conclusively.

The appellant's counsel says, "To say that this controversy has been a very protracted one, is to say what the members of this Court have known for many years—to say that it is an important one, is to say only what appears in the record. * * I suppose the present record to present all of the facts necessary to a final determination of the controversy, and I hope we may be allowed to present upon their merits all of the questions which it fairly involves."

We cordially unite with the appellant's counsel in the expression of the hope that the legal questions involved, may be fully met, and finally disposed of; and we ask in advance the indulgence of the Court while we follow and reply to his argument.

The appellant's counsel, while making many points, and presenting and arguing many other propositions, says: "I wish to put the case mainly upon the ground that the plaintiff has failed to show either a legal or an equitable title superior to the defendant's."

Upon this ground we propose to meet him.

The proofs contained in the record consist mainly of documentary evidence, proceedings, and correspondence of the Executive Department, and of State officers, which are not arranged in order of date, or with reference to the subjects to which they refer. But very little of this is really necessary to an understanding of the case; and in the hope that the labors of the Court may be facilitated thereby, we shall point out such parts of the record as seem to us to bear upon the questions involved.

The Act of 8th August, 1846, made a grant of lands to the Territory of Iowa to "aid in the improvement of the navigation of the Des Moines river in said Territory;" and it was thereby enacted:

"That there be and hereby is granted to said Territory of Iowa, for the purpose of aiding said Territory to improve the navigation of the Des Moines river, from its mouth to the Racoon Fork (so called) in said Territory, one equal moiety in alternate sections of the public lands * * * in a strip five miles in width on each side of said river, to be selected within said Territory by an agent or agents to be appointed by the Governor thereof, subject to the approval of the Secretary of the Treasury of the United States." Section 4 of the act provided that: "Whenever the Territory of Iowa shall be admitted into the Union as a State, the lands hereby granted for the above purpose shall be and become the property of said State for the purpose contemplated in this act and for no other: Provided the Legislature of the State of Iowa shall accept the said grant for the said purpose."

The Territory of Iowa was admitted as a State on the 28th December, 1846, and on the 9th January, 1847, the Legislature of the State accepted the grant.

(Record, p. 73.)

Agents, appointed by the Governor, selected, in behalf of the State, "the odd sections, as designated on the map furnished by the General Land Office," and so reported to the Governor, on 17th December, 1846.

(Record, p. 66.)

A question was made afterwards whether such selection could apply to lands not then surveyed—and, for greater caution, the Board of Public Works, in behalf of the State, again selected the odd sections from the mouth of the river to its source, in 1851 ~~1857~~, and notified the General Land Office.

(Record, pp. 36–37.)

On 2d March, 1849, the Secretary of the Treasury decided that the grant extended from the mouth of the river to its source and did not stop at the Raccoon Fork; and he communicated a copy of this decision to the Commissioner of the General Land Office, who thereupon, on 1st June, 1849, advised the local land officers of this decision, and instructed them to "withhold from sale all the lands situated in the odd numbered sections within five miles on each side of the Des Moines river above the Raccoon Forks." This was received by the local land officers on the 16th June, 1849, and its receipt acknowledged.

(Record, p. 31–32.)

On 30th October, 1851, Secretary Stuart, then head of the Interior Department, approved the lands to the State, in accordance with Secretary Walker's decision of 2d March, 1849; and 16th March, 1852, ~~1852~~, the Commissioner of the Land Office transmitted to the State authorities approved lists, which embraced the lands so far as the surveys had then progressed.

(Record, p. 33.)

A copy of these lists, approved by the Secretary on the 30th October, 1851, is given.

(Record, p. 53, 54, 55.)

Next in date was the list approved 10th March, 1852, which included the lands in controversy in this suit.

(Record, p. 41, 45.)

The other lists are set forth forth at p. 38, 40, Record.

Taken together, these lists embrace 271,572 24-100 acres, and embrace all the lands *above the Raccoon Forks*, which had been certified to the State under the Act of 8th August, 1846, prior

to the passage by Congress of the Joint Resolution of 2d March, 1861.

After the State's selection under this grant had been approved, it commenced the improvement of the river, and sold the lands, as necessary, from time to time to provide the means; and on the 9th June, 1854, by a contract with the Des Moines Navigation and Railroad Company, the State agreed to sell, and the Company agreed to purchase, all of the lands belonging to the grant, then remaining unsold, and supposed to be about one million of acres, for the sum of $1,300,000, to be expended in completing the improvement of the river.

(Record, p. 85. See section 8 of Contract, p. 88.)

The Company entered upon the work, and proceeded with it until 1856, when difficulties arose at the Land Office as to the extent of the grant—the Land Office then deciding that the grant did not extend above the Raccoon Fork, and declining to certify any more lands above that point.

The State, becoming, in consequence, unable to convey to the Company all the lands which it had sold; a settlement was made between them, by which the contract was by mutual consent, terminated, and the State agreed to convey to the Company all the lands then remaining unsold, and which had been approved and certified to the State by the General Government, and the details of this contract of settlement appear by the Joint Resolution of the General Assembly of 22d March, 1858.

(Record, p. 73, 75.)

The Governor of the State thereupon certified to the President of the United States that said Company had expended $332,634 04 upon said improvement, under its contract with the State; and that, in consideration thereof, there would be conveyed to said Company 266,107 23-100 acres of the land belonging to said grant, and which have "been certified and approved to the State of Iowa under said Act."

(Record, p. 64, 65.)

Afterwards, on the 18th May, 1858, the State of Iowa executed its patent to said Company, conveying to it all the lands which,

by the terms of said Joint Resolution of settlement it had agreed to convey, said patent following and adopting the terms of the Joint Resolution.

(Record, p. 76.)

The State also executed a patent to the Company describing, amongst others, the particular land in controversy in this suit; and the Company conveyed the land to the respondent Welles.

(Record, p. 28, 29.)

Afterwards, at the December Term of 1859, this Court decided that the grant made by the Act of 8th August, 1846, did not extend above the Raccoon Fork. The decision was announced 7th April, 1860, and is reported in 23 Howard, 66. Litchfield *vs.* Dubuque & P. R. R. Company.

In view of this decision the Land Office, on 18th May, 1860, issued notice No. 661, continuing the reservation which had previously been made of the lands within the claimed limits of the Des Moines river grant above the mouth of the Raccoon Fork.

(Record, p. 35.)

The Secretary of the Interior, on 11th June, 1860, wrote to the chairman of the Committee of Public Lands of the United States Senate, recommending the passage of a Joint Resolution confirming the action of his predecessors in certifying the lands above the mouth of the Raccoon Fork.

(See copy of Resolution. Record, p. 58, folio 182.)

On 2d March, 1861, Congress passed a Joint Resolution providing that "all the titles which the United States still retain in the tracts of land along the Des Moines river, and above the mouth of the Raccoon Fork thereof, in the State of Iowa, which have been certified to said State improperly by the Department of the Interior, as part of the grant by act of Congress, approved August 8, 1846, and which is now held by bona fide purchasers under the State of Iowa, be and the same is hereby relinquished to the State of Iowa."

And on the 12th July, 1862, Congress passed an Act entitled "An Act confirming a land claim in the State of Iowa," which

provided "that the grant of lands to the then Territory of Iowa, for the improvement of the Des Moines river, made by the Act of 8th August, 1846, is hereby extended so as to include the alternate sections designated by odd numbers, lying within five miles of said river between the Raccoon Fork, and the Northern boundary of the State," &c.

We claim that the State of Iowa acquired a good title to the lands in question by virtue of the Acts of Congress above referred to; that those acts in and of themselves vested the title in the State; that the certificates issued by the Land Department effectually separated the granted lands, and the lands which the Department in construing the act of Congress *decided* to be included in the grant, from the public lands and reserved them; that the confirmatory Acts of Congress made the title good from the date of the original act and certificates; and even if there was not a formal reservation the Land Officers had set apart the lands in question from the other public lands, and had appropriated them for that special purpose; and that whether the Land Officers, in making such appropriation, acted upon a correct or upon an erroneous construction of the Acts of Congress, the *effect* of the appropriation and reservation thus made was to take the lands out of the class of *public* lands which alone are liable to pre emption; and that the patent relied on by defendant is void.

First Point.—When lands are granted, or confirmed by a law, by the Government or by a State, in terms of specific description and by words of present grant, the title is as effectually transferred from the grantor and vested in the grantee by such an act of legislation as by a patent; and a grant thus made by a law is higher evidence of title than a patent.

I. A grant may be made and title vested in the grantee by a law, without a patent.

In 12 *Peters*, 454, *Strother* vs. *Lucas*, this Court said,

"That a grant may be made by a law as well as a patent pursuant to law, is undoubted."

In 2 *Howard*, 319, *Grignon's Lessee* vs. *Astor*, this Court said of a grant thus made by a law, "It was a higher evidence of title than a patent, as it was the direct grant of the fee, which had been in the United States by the Government itself; whereas the patent was only the act of its ministerial officers."

12 *Howard*, 59, *Lessieur* vs. *Price*, was an instance of a direct grant made by act of Congress of a certain quantity of lands, but where the particular lands granted were to depend upon a selection to be made by the grantee; and this Court held that the title made by the act related to and took effect from *the first act* done by the grantee towards giving precision to the title.

In 23 *Howard*, 66, *Litchfield* vs. *Dubuque R. Rd. Co.*, this Court said of the act of 8th Aug, 1846, "The Act of Congress was a direct grant to Iowa in fee. * * Congress held the undoubted power to make the grant and vest the fee."

II. A confirmation by an act of legislation, is a grant as fully as if it contained a grant in terms.

In 12 *Peters*, 454, *Strother* vs. *Lucas*, the Court said, "A confirmation by law is as fully to all intents and purposes a grant, as if it contained in terms a grant *de novo*."

In 2 *Howard*, 316-317, *Stoddard* vs. *Chambers*, it was said "a confirmation by Act of Congress vests in the confirmee the right of the United States, and a patent if issued, could only be evidence of this." Such a title, it was said "has the highest sanction of the Government—an act of legislation."

III. A confirmation by an act of legislation relates back to, and takes effect from, the date of the transaction which is

thus confirmed; and makes the transaction so confirmed as valid and effectual in law as if it had been authorized by law when it occurred.

"When a party acting for himself, or by a previously authorized agent has attempted to enter into a contract, but has done so in an informal or invalid manner, he confirms the act and thus renders it valid—*in which case it will take effect as between the parties from its original making.*"

Bouvier's Law Dictionary—Title, "Confirmation."

In 4 *Wallace*, 204, *Lanfear* vs. *Hawley*, it was said that an act of Congress confirming a claim to land, "confirms to the grantee whatever he was entitled to by the original grant, *conceding that to have been valid.*"

In 6 *Peters*, 691, 713, *United States* vs. *Arrendondo* (page 713), this Court said: "When Congress have by confirming the report of Commissioners or other tribunals, sanctioned the rules and principles on which they were founded, it is *a legislative affirmance of the construction put by these tribunals on the laws* conferring the authority and prescribing the rules by which it should be exercised; or—which is to all intents and purposes of the same effect in law—it is a legislative ratification of an act done without previous authority, and *this subsequent recognition and adoption is of the same force as if done by pre-existing power, and relates back to the act done.*"

Having thus considered the effect of direct grants, by law, without any patent, and the effect of a subsequent recognition and confirmation by law of acts originally done without legal authority, we proceed to consider the terms and effect of the acts of Congress, and other legislation, upon which the respondent's title depends.

Second Point.—The Acts of Congress of 8th August, 1846, 2d March, 1861, and 12th July, 1862, made *direct grants in fee* to Iowa, which vested a complete title in the State at the moment of their enactment. No action of the Land Department was necessary in order to complete the title, and the land officers had no authority to do anything whatever in relation to the granted lands, except to make the partition which was rendered necessary by the terms of the Act of 1846, which granted a "moiety" of an undivided tract. Under these Acts of Congress the State acquired a title, which was *good*, as against the Government, from 8th August, 1846.

I. The Act of Congress of 8th August, 1846.

This act "granted to the territory of Iowa * * one equal moiety in alternate sections of the public lands, * * * in a strip five miles in width on each side of the Des Moines River, to be selected within said territory by an agent or agents to be appointed by the Governor thereof, subject to the approval of the Secretary of the Treasury of the United States"

By Section 4 of the Act it was provided that whenever the Territory should be admitted as a State, the lands so granted "shall be and become the property of said State."

The lands granted were thus perfectly identified, and the act made a direct grant in fee, and the title vested in the Territory the moment the bill became a law. The Territory was admitted into the Union as a State on the 28th December, 1846, and the lands granted then became "the property of the State." The certified lists of the lands were not issued from the Land Office to the State, except as the surveys progressed, and extended from 1848 to 1853; but the *title* to all the lands granted was fully *vested in the grantee* at the moment of the passage of the law. The United States and Iowa then became tenants in common in the land, "one equal moiety" of which had thus been granted.

The statute pointed out the mode of partition—Iowa was

to make its selection of the alternate sections "subject to the approval of the Secretary of the Treasury." Iowa selected the odd sections, and the Secretary approved the selection; and in this way the partition was made.

Before this selection and approval, *the title* of Iowa to the granted lands was as perfect and as completely vested as it was after the selection and approval; but it was a title to an undivided interest which became separate and distinct when the partition was complete.

The certified lists issued from the Land Office under the grant were of no importance except as a mode of making partition; and, if they had never been issued, the complete title vested in Iowa by the Act itself would not have been thereby impaired. But the certificates were evidence of the "approval" by the Secretary of the selection made by the State. The partition was thereby made complete, and the power of the Land Office in relation to the matter was thereby exhausted. This was in 1851–1853, and since that time the Land Officers have had no authority to deal with these lands as a part of the public domain.

Such was the construction put upon this Act by this Court in 23 *Howard*, 66; *Litchfield* vs. *Dubuque Co.*, when the Court said that the Act "made a direct grant in fee" which vested the title at once—and that "no authority was conferred upon the Land Officers to do more than to make partition in the manner prescribed in the Act."

In making the partition called for by the Act the Land Officers issued to Iowa certificates for the alternate sections, as far as the surveys were completed, extending above the Raccoon Fork of the river, their action being based upon the decision made by the Executive officers that the grant extended to the northern boundary of the State. But in 23 *Howard*, 66, this Court decided that the grant did not ex-

tend above the Raccoon Fork. This made necessary a confirmatory Act of Congress, which was:

II. The Joint Resolution of 2d March, 1861.

By this Joint Resolution "*all the title* which the United States still retain in the tracts of land along the Des Moines River, and above the mouth of the Raccoon Fork thereof, in the State of Iowa, which have been certified to said State improperly by the Department of the Interior as part of the grant by Act of Congress, approved 8th Aug., 1846, and which is now held by *bona fide* purchasers under the State of Iowa, be, and the same is hereby relinquished to the State of Iowa."

The lands were here perfectly identified—they had been already listed and certified—and noted upon the records of the general and local land offices, and official certified lists had been furnished to the State. Upon the passage of this joint resolution those certified lists received the ratification of Congress, and *the title* to the lands therein specified became perfect in the State and its grantees. Nothing which the Land Department or any of its officers might do, or fail to do, could in the slightest degree affect the matter. No power was conferred upon them to do anything about it. The Joint Resolution of 1861, like the act of 1846, vested the title at once.

The appellant's counsel seem to suppose that it was necessary for the Land Officers to again certify these lands to the State before any title would vest; but the resolution does not require it—for it declares that the title "is *hereby* relinquished to the State." The resolution itself, expressing the will of Congress, and acting upon the specific lands which had already been certified—completed the transfer of title, and vested it in the State.

It is also argued that the Joint Resolution did not operate as a direct grant, which passed the title at once, because it recited the fact that the lands were held by *bona fide* purchasers under the State; and that therefore, the grant was to be deemed *limited* to lands which were thus held;

and that evidence *aliunde* would be required to ascertain what lands were intended.

But we insist that the resolution in and of itself made a complete grant. It relinquished to the State of Iowa "all the title" which the United States had retained in certain specified lands. If the lands were so described as to be capable of identification, the grant was complete and the title passed by force of the enactment. If the grant was of the title to *all* the lands which had been certified under the Act of 1846, then they were perfectly identified by the production of the certificates issued by the Land Office to the State. If, on the other hand, the grant was limited to such lands as were held by *bona fide purchasers* under the State, it was sufficient to refer to the Joint Resolution of the 22d of March, 1858, passed by the General Assembly of Iowa, to show that *all* the lands so certified had been by the State disposed of to *bona fide* purchasers; and the patents issued in pursuance of such resolution made the evidence and identification complete. The question whether any claimant of land is a *bona fide* purchaser under the State, is a question of law to be determined by the Courts, and depends upon the legislation and conveyances by the State. It is very clear that nothing which the executive officers of the United States might do, or fail to do, could have any bearing upon the question. To make a good title to any portion of said lands upon a trial, it is sufficient for the claimant to show:

(1.) That they were a part of the lands certified to the State under the Act of 8 August, 1846.

(2.) That the claimant held under a law making a direct grant, or under a deed or patent from the State. The patent itself is *prima facie* evidence that all incipient steps had been regularly taken, and that the patent was duly authorized.

7 *Wheaton*, 212; *Hoofnagle* vs. *Anderson*.
18 *Howard*, 87; *Minton* vs. *Crommelin*.
3 *Wallace*, 478; *Beard* vs. *Federy*.

And we suppose the patent is of itself sufficient evidence that the patentee is a "*bona fide* purchaser."

But if it were necessary to look behind the patent to see if it were authorized by law, then the Courts would take *judicial notice* of the legislation of Iowa, and,

(3.) It would there appear that in the Joint Resolution of the General Assembly of 22d March, 1858, the State, for a valid consideration, absolutely and irrevocably sold and conveyed the lands in question to the Improvement Company, from which the respondent Welles derived his title. (Record p. 73.)

By that resolution a contract of settlement was proposed to the Company and the terms of it were recited; and it was stipulated that, if the Company should agree to it, "then *this contract* shall be in force and bind *both of the parties thereto.*" By the terms of the resolution the Company was, among other things, required "to execute to the State of Iowa full releases and discharges of all contracts, agreements and claims with or against the State, * * * * and all claims against the State of Iowa and the *lands* connected with the Des Moines River Improvement, excepting *such as* ARE HEREBY BY THE STATE SECURED TO SAID COMPANY;" * * * "and also surrender to the State the dredge boat and its appurtenances belonging to said Company;" * * * "and to release and convey to said State all materials of every kind, prepared for the construction of locks and dams;" and also "pay the State the sum of $20,000." These various things constituted the consideration paid by the Company; and, on its part, the State agreed that it would "by its proper officers *certify and convey* to said Company *all lands* granted" by the Act of Congress of 1846, "which *have been approved and certified to the State of Iowa* by the General Government," * * * excepting what had been previously sold by the State, &c. "And said Company or its assignees *shall have right* to all of

said lands AS HEREIN GRANTED to them, as fully as the State of Iowa could have under or by virtue of said grant, or in any manner whatever," "with full power to settle all *errors*, false locations, omissions, or claims, in reference to the same, and *all pay or compensation therefor by the General Government.*" "And it is understood that among the lands excepted AND NOT GRANTED by the State to said Company are 25,487 acres," &c. The grant thus made by a *law* of the State was complete in itself, and was sufficient to transfer all the title which the State then had or should afterwards acquire, even if no patent had subsequently been issued by the State. It of itself established the fact that *all the lands which had been certified* to the State under the Act of 8th August, 1846, had been by the State transferred to *bona fide* purchasers. It was more than mere evidence, it was *incontrovertible* and *conclusive* evidence, for it was in terms a *contract*; and the legal presumption is that this fact was known to Congress when the Joint Resolution of 2d March, 1861, was passed. And, therefore, we say that the words used in the Joint Resolution of Congress, "and which is now held by *bona fide* purchasers under the State of Iowa," are merely to be understood as the statement of an ascertained fact in relation to the lands, *and not as a limitation of the grant.*

The evident intention of Congress was to ratify *all* the transfers of title which the Land Office had attempted to make by issuing the certificates to the State; for it was well known, that the State had been for fifteen years dealing with *all* the certified lands as its own; and it is not to be supposed that Congress intended to confirm the titles to a *part* of the lands which had been certified, and to annul the titles as to another part of the same lands, and to set on foot a contest as to whether or not the lands were "held by bona fide purchasers under the State." Such a construction would tend to *disturb* titles, rather than to quiet them, and would be so contrary to the manifest intention of Congress, that it ought not to be

adopted unless it is unavoidable. The aim and evident intent of Congress were to make good *to the State* the certificates and *all* the certificates which the Land Officers had issued to it, in supposed execution of the law of 1846; and in reliance upon which *the State* had entered upon the construction of a great improvement. This end would not be attained by merely confirming the title to a part of the lands which had been certified. The fact is that the State claimed to have the grant confirmed as extending to its northern boundary—thus embracing over 300,000 acres more than had been certified; but Congress, in the Joint Resolution of 1861, limited its action to confirming to the State the title to the lands—and as we claim, to *all* the lands—which had been included in the certificates issued to the State by the Land Department.

We have already said that the legal presumption is that when Congress passed the Joint Resolution of 2d March, 1861, it had knowledge of the Joint Resolution of the State of Iowa of 22d March, 1858, whereby the State had transferred these lands to the Des Moines Navigation and Railroad Company.

But we are not left to presumption on the subject, for it is established as a *fact*, that prior to this time the State had officially communicated to the general Government, its intention to convey to said Company 266,107 23-100 acres, in consideration of the sum of $332,634 04 expended by said Company upon the improvement of the Des Moines river, under contract made between the State of Iowa and said Company, and in pursuance of the provisions of the Act of Congress. This official communication was as follows:

EXECUTIVE CHAMBER, IOWA,
Des Moines, April 28, 1858.

To His Excellency James Buchanan, President of the United States:

I, Ralph P. Lowe, Governor of the State of Iowa, as required by the Act of Congress, approved August 8,

1846, "granting certain lands to the territory of Iowa, to aid in the improvement of the navigation of the Des Moines river in said Territory," do hereby certify that there has been expended from time to time, prior to the date hereof, on the improvement of said river, as the work has progressed, and money has been required under certain contracts made by the State of Iowa with the Des Moines Navigation and Railroad Company, the sum of three hundred and thirty-two thousand, six hundred and thirty-four $\frac{04}{100}$ dollars, ($332,634 $\frac{04}{100}$), and in consideration of said expenditures on said improvement, and in pursuance of the provisions of the Act of Congress, approved as aforesaid, there will be conveyed to said Des Moines Navigation and Railroad Company, two hundred and sixty-six thousand, one hundred and seven $\frac{23}{100}$ acres, (266,107 $\frac{23}{100}$) of the lands belonging to said grant, and which have been certified and approved to the State of Iowa under said act, for the prosecution of the improvement of said river Des Moines.

In testimony whereof, I, Ralph P. Lowe, Governor of the State of Iowa, have caused the great seal of the State [L. S.] of Iowa, to be hereunto affixed, together with my signature.

RALPH P. LOWE.

By the Governor:

ELIJAH SELLS, Secretary of State.

Here was evidence to the general Government that the lands had been sold by the State to "bona fide purchasers," who had paid $332,634 $\frac{04}{100}$ therefor, which had been expended on the improvement.

Not only this, but the notice stated the intended grantee, and the particular lands to be conveyed, to wit: The lands which had "*been certified and approved to the State of Iowa under said act.*" This notice to the President was notice to Congress, and therefore we say, that when the Joint Resolution of 2d March, 1861, was passed by Congress, it was with full knowledge, that the State had

transferred the land in question to specified bona fide purchasers; and the language of the Joint Resolution is to be deemed merely, a statement of that fact and *not a limitation of the grant.* And more than this—*this particular conveyance of* 266,107 $\frac{23}{100}$ *acres* for the consideration of $332,634 $\frac{04}{100}$ *to a grantee named by the State,* must be deemed to be absolutely *confirmed* by Congress, by the Joint Resolution, *as much so as if it had been therein specified in terms.*

We submit, therefore, that the joint resolution of Congress of 2d of March, 1861, was, in and of itself, *a direct grant* which, *ex proprio vigore,* transferred to the State of Iowa and its grantees, " all the title" which the United States had until then retained in *all* the lands above the Raccoon Fork, which had been certified as a part of the grant of 8th August, 1846.

III. The title of the State of Iowa and its grantees, which was thus confirmed by Congress, was made good not merely from the passage of the Joint Resolution, but by relation back to the certificates, it was made good as against the Government and all parties claiming under it by title subsequent, from the date of those certificates, and from the enactment of the law under which they were issued.

The Act of 1846 vested the title at once, as to all the lands which were below the Raccoon Forks; and if the certificates issued under that Act for the lands above the Raccoon Forks had been properly issued—that is, if the law of 1846 had authorized them—they would have been evidence to Iowa of a good title from 8th August, 1846. The Joint Resolution of 2d March, 1861 confirmed these certificates, and thereby made them as effectual as if they had been authorized by the Act of August, 1846; consequently the title to the lands specified in the Joint Resolution was made good, not merely from the date of that resolution, but, by relation back, the title was made good from the 8th August, 1846, when the law was enacted

under which the certificates were issued. *The legal effect of the confirmation by the Joint Resolution of* 1861 *was to sanction the construction which the Executive officers had given to the Act of* 1846, *and to legalize the transfer of the title which they had attempted to make in carrying out that construction.* It is the same as if Congress had said, in terms, that "the certificates issued under the Act of 8th August, 1846, *are hereby confirmed.*" Consequently, the State of Iowa and its grantees took a good title to all the lands which were certified under that Act, whether the lands are above or below the Raccoon Fork, and that title is, in every respect, the same as if all said lands had been included in terms, in the grant made by the Act of 1846. Such, we understand to be the effect of the Joint Resolution of 1861. But in addition to this is—

IV. The Act of Congress of 1862.

We ask the attention of the Court to its precise terms. It is entitled, "An Act *confirming a land claim* in the State of Iowa, and for other purposes," and it enacts that "*the grant of lands* to the then Territory of Iowa" made by the Act of 8th August, 1846, *is hereby extended so as to include the alternate sections designated by odd numbers* lying within five miles of said river, between the Raccoon Forks and the northern boundary of the State." Here again the lands granted are perfectly identified; the Act made a direct grant in fee, and the title vested at once. The State of Iowa had always *claimed* that all the lands here designated were included in the grant made by the Act of 1846; and by the action of the Land Department they had all been withheld from market since 1849, to satisfy that claim; and Congress, in 1861, had confirmed the titles *to that portion* of the lands above the Raccoon Forks, for which certificates had been issued, and which were then "held by *bona fide* purchasers under the State of Iowa." But this Act of 1862, as its title shows, was intended to "confirm" the "claim" made by the State to its full extent and without any qualification. The Act does not purport to make a new grant in addition to the former one, but simply enacts that "*the grant made by the act of* 8th

transferred the land in question to specified bona fide purchasers; and the language of the Joint Resolution is to be deemed merely, a statement of that fact and *not a limitation of the grant.* And more than this—*this particular conveyance of* 266,107 $\frac{28}{100}$ *acres* for the consideration of $332,634 $\frac{04}{100}$ *to a grantee named by the State,* must be deemed to be absolutely *confirmed* by Congress, by the Joint Resolution, *as much so as if it had been therein specified in terms.*

We submit, therefore, that the joint resolution of Congress of 2d of March, 1861, was, in and of itself, *a direct grant* which, *ex proprio vigore,* transferred to the State of Iowa and its grantees, " all the title" which the United States had until then retained in *all* the lands above the Raccoon Fork, which had been certified as a part of the grant of 8th August, 1846.

III. The title of the State of Iowa and its grantees, which was thus confirmed by Congress, was made good not merely from the passage of the Joint Resolution, but by relation back to the certificates, it was made good as against the Government and all parties claiming under it by title subsequent, from the date of those certificates, and from the enactment of the law under which they were issued.

The Act of 1846 vested the title at once, as to all the lands which were below the Raccoon Forks; and if the certificates issued under that Act for the lands above the Raccoon Forks had been properly issued—that is, if the law of 1846 had authorized them—they would have been evidence to Iowa of a good title from 8th August, 1846. The Joint Resolution of 2d March, 1861 confirmed these certificates, and thereby made them as effectual as if they had been authorized by the Act of August, 1846; consequently the title to the lands specified in the Joint Resolution was made good, not merely from the date of that resolution, but, by relation back, the title was made good from the 8th August, 1846, when the law was enacted

under which the certificates were issued. *The legal effect of the confirmation by the Joint Resolution of* 1861 *was to sanction the construction which the Executive officers had given to the Act of* 1846, *and to legalize the transfer of the title which they had attempted to make in carrying out that construction.* It is the same as if Congress had said, in terms, that "the certificates issued under the Act of 8th August, 1846, *are hereby confirmed.*" Consequently, the State of Iowa and its grantees took a good title to all the lands which were certified under that Act, whether the lands are above or below the Raccoon Fork, and that title is, in every respect, the same as if all said lands had been included in terms, in the grant made by the Act of 1846. Such, we understand to be the effect of the Joint Resolution of 1861. But in addition to this is—

IV. The Act of Congress of 1862.

We ask the attention of the Court to its precise terms. It is entitled, "An Act *confirming a land claim* in the State of Iowa, and for other purposes," and it enacts that "*the grant of lands* to the then Territory of Iowa" made by the Act of 8th August, 1846, *is hereby extended so as to include the alternate sections designated by odd numbers* lying within five miles of said river, between the Raccoon Forks and the northern boundary of the State." Here again the lands granted are perfectly identified; the Act made a direct grant in fee, and the title vested at once. The State of Iowa had always *claimed* that all the lands here designated were included in the grant made by the Act of 1846; and by the action of the Land Department they had all been withheld from market since 1849, to satisfy that claim; and Congress, in 1861, had confirmed the titles *to that portion* of the lands above the Raccoon Forks, for which certificates had been issued, and which were then "held by *bona fide* purchasers under the State of Iowa." But this Act of 1862, as its title shows, was intended to "confirm" the "claim" made by the State to its full extent and without any qualification. The Act does not purport to make a new grant in addition to the former one, but simply enacts that "*the grant made by the act of* 8th

Aug., 1846, * * * is hereby "*extended so as to include*" the lands which the State had always claimed under it.

The claim of the State was that the lands in question *had been granted* by the act of 8 Aug., 1846; and this claim was *confirmed* in its fullest extent in the Act of 1862; and it is submitted that the legal effect of this confirmation was to make the title of the State to all the granted lands, whether above or below the Raccoon Fork, *good from 8th Aug.*, 1846; and that such title must be held good *from that date*, as against the government and all parties claiming under it by title subsequent."

And we say:

V. The doctrine for which we contend is sustained by the decisions of the Courts in relation to the effect of these confirmatory acts.

(1.) *In* 5 *Wallace*, 681, *Wolcott* vs. *Des Moines Company*, Wolcott's deed from the Company was dated in 1859; and the Company held under a patent from the State, dated in 1858, given in pursuance of a contract of sale made by the State to the Company in June, 1854; and this Court held that these acts of Congress, by relation back, made a good title in Wolcott's immediate grantor, and in the State at the dates of their respective conveyances. If the States' patent had been dated in 1854, when the contract of sale was made, it would equally, and on the same principle have been held good. In short, the doctrine established by the case is, that these confirmatory acts operated to vest a good title in the State—which would enure to the benefit of all its grantees, no matter what the date of their respective conveyances, provided only that they were subsequent to the act of 1846, and the certificates issued thereunder. The proof in this case as well as in Wolcott's case establishes, that as fast as these lands were conveyed by the General Government to the State, it assumed to own them and proceeded to sell and

dispose of them; and that the State had issued a large number of patents for these lands in February, 1853. (See Record, p. 140–181.) Consequently this Court must be deemed to have decided that the State's title to all the certified lands was made good as of the date of the approval to the State. The principle upon which the decision rests we understand to be that these confirmatory acts relate back to *the inception* of the State's title; and make it good *from that time* as against the Government and all parties claiming under it by title subsequent; and the *inception* of the title of the State was the act of 1846, and the issue of certificates made under it.

The particular lands in question in this suit were approved to the State on 10th March, 1852; and the language of the approval recognizes the fact that the title of the State would take effect from "the time when the selection was made known to the land officers by the agents of the State"—which was in 1847.

(2.) The Supreme Court of Iowa held the same doctrine in 22 *Iowa Reports*, 151 *Stryker* vs. *Polk County*; where it was judicially determined that the grantees of the State were *owners of the lands and bound to pay the taxes* on them from the date of the conveyance by the State in 1858.

That Court said: "The plaintiff held a deed from the State—the State claimed under the original grant, the lists being duly certified—he was a *bona fide purchaser*, and the title still retained by the United States was relinquished to the State for his use." Again, "the United States had already, in the manner contemplated by the act, parted with its title—the State, upon the faith of the title thus acquired, had sold and conveyed—and the joint resolution of 2d March, 1861, was intended as a matter of justice and right to secure and quiet *bona fide* purchasers in their titles." Again, "Our opinion is, that holding the title as he did, the joint resolution of

1861, for the purpose of the present inquiry *made it as good from the time of the first conveyance by the State*, as it was *after* such Congressional action."

(3.) When the Government *confirms* a claim to land—whether the confirmation is by patent, or by direct grant, the legal title relates back to, and takes effect from the *inception* of the right of the grantee—so as to cut off all subsequent claimants.

Accordingly, in 6 *Wallace*, 418, *Stark* vs. *Starrs*, this Court said, "when in fact the patent does issue, it relates back to the inception of the right of the patentee, so far as it may be necessary to cut off intervening claimants."

12 *Howard*, 59, *Lessieur et al.* vs. *Price*, was a case of direct grant by Congress—but where the lands granted could only be made certain by the selection by the grantee, and the Court held that the title made by the grant "related to, and *took effect from the first act done* by the State towards giving precision to the title," so as to cut off all intervening claimants.

We think that it is established that the State of Iowa acquired a good title to all the lands which were certified to it as a part of the grant made by the Act of 8 Aug., 1846: And that the confirmatory acts of Congress made the title good *from its inception* on 8th Aug., 1846, as against the Government, and all parties claiming under it by title subsequent.

The counsel for the appellant insists that even it the State had a good title, it was not lawfully transferred by the State to the grantors of the respondent; and urges that such transfer could not be authorized by a joint resolution, and that the patents were without authority.

But we submit—

Third Point.—The title which the State acquired to the lands in controversy in this suit, was lawfully and fully transferred to and vested in the respondent Welles.

I. The patent from the State is *prima facie* evidence that all necessary preliminary steps had been taken; and that the patent was issued by due authority of law; and no third party can impeach it collaterally. This could only be done by the State in a direct proceeding for that purpose.

18 Howard, 87 Minton, *vs.* Crommelin.
7 Wheaton, 212, Hoofnagle *vs.* Anderson.
9 Missouri Rep., 741, Allison *vs.* Hunter.

Here, perhaps, we might rest, and stand upon the patent. But, inasmuch as the question is raised and argued on the other side, we proceed to show that it was authorized by law.

II. The land in question was absolutely granted to the Des Moines Company, in terms of present grant, by the joint Resolution of 22d March, 1858, and that resolution *ex proprio vigore* vested the title in the grantee, without any patent, and although a patent was subsequently issued, it was not necessary in order to convey the title.

(Record p. 73.)

That resolution provided for a settlement between the State and the Company; and as we have already seen, it was in its terms a "contract" to "be in force and *bind both of the parties* thereto." It was accepted and performed by the Company.

The contract thus made, provided, among other things, that the Company should "release to the State all claims against the lands connected with the Des Moines River Improvement, excepting such *as are hereby by the State secured to said Company;* and the State of Iowa shall, by its proper officer, certify and convey to the said Company all lands granted by an act of Congress, approved August 8, 1846, to the then Territory of Iowa, to aid in

the improvement of the Des Moines River, *which have been approved and certified to the State of Iowa by the general Government*," excepting such as had been sold by the State prior to 23d December, 1853. "And said Company, or its assignees, *shall have right* to all of said lands as *herein granted to them*, as fully as the State of Iowa could have under or by virtue of said grant, or in *any manner whatever*, &c." "And it is understood that among the lands excepted *and not granted* by the State to said Company are 25,487 acres," which were specified and had been sold, &c. In addition to releasing the State from its contracts, the Company was also to surrender to it its dredge-boat, and all materials provided for the construction of locks and dams, and to pay the sum of $20,000 in money.

This contract contains all the elements of a deed or grant upon consideration paid; it shows the consideration paid; it specifies the lands granted, so that any Court or person could make out a perfect list from the State records; it names the grantee; it agrees that the lands are thereby "granted," and that the Company and its assignees *shall have right* to all of said lands as *herein granted* to them, as fully as the State of Iowa could have "under the grant of 8th August, 1846," or "in any manner whatever."

It is more than an ordinary Legislative grant; such grants are sometimes termed quit-claims: but this, in terms, is a "*contract*," upon a consideration paid. It is not like an ordinary law, which, under certain circumstances, could be amended or repealed by the law-making power; but this, in its terms, is a "contract which shall be in force and bind *both of the parties thereto*."

It is as fully a conveyance by the State, as if it contained all the technical terms usual in such instruments.

The laws of Iowa dispense with all unnecessary verbiage in conveyance of real estate.

"It is not necessary to use the word 'heirs,' or other technical words of inheritance in order to create and convey an estate in fee simple."

Sec. 2,208, *p.* 390, *Code of Iowa, Revision of* 1860.

"Every conveyance of real estate passes all the interest of the grantor unless a contrary intent can be inferred from the terms used."

Sec. 2,209, *Code of* 1860, *p.* 390.

"When a deed purports to convey a greater interest than the grantor was at the time possessed of, any after acquired interest of such grantor, to the extent of that which the deed purports to convey, enures to the benefit of the grantee."

Sec. 2,210, *Code of* 1860, *p.* 390.

The Code also provides for *forms* of deeds, as follows:

"The following or other equivalent forms, varied to suit circumstances, are sufficient for the purpose therein contemplated.

FOR A QUIT CLAIM DEED.

For the consideration of ——— dollars, I hereby quit claim to A. B. all my interest in the following land: (Describing it.)

FOR A DEED IN FEE SIMPLE, WITHOUT WARRANTY.

For the consideration of ——— dollars, I hereby convey to A. B. the following tract of land: (Describing it.)

FOR A DEED IN FEE SIMPLE, WITH WARRANTY.

The same as the last preceding form, adding the words, "and I warrant the title against all persons whomsoever."

Code, Revision of 1860, *p.* 394.

It is clear that when the Legislature agrees that the State "*does hereby secure to said Company*," certain specified lands, and agrees that said Company *shall have right to* all of said lands as *herein granted* to them as fully as the State could do "under the grant of 1846," *or in any manner whatever*—it is something more than a quit claim—*it is a warranty.*

The forms quoted from the Code show that in quit claim deeds, the words used are "hereby quit claim," which are not used in the Joint Resolution of 1858, or in the patents given to us by the State; and the proper words for a deed in fee simple are "hereby convey," which are the words of the Resolution and of the patents. A deed of warranty is to use the words, I "warrant the title," *or other equivalent expressions*; and the Resolution and the general patent issued in pursuance of it undertake to *secure* certain lands to the grantee, and stipulate that the said grantee *shall have right* to said lands as fully as the State could have "in any manner whatever." We claim that this is a warranty that the lands shall be *secured* by a good title to the grantee. However this may be, it is sufficient to say that under *such a grant* and *such a conveyance*, any title, afterwards acquired by the State, would enure to the benefit of the grantee.

Section 2,210 of the Code above quoted, provides, that "when a *deed* purports to convey a greater interest than the grantor was at the time possessed of," after acquired title "shall enure to the benefit of the grantee." This provision is general and applies to all "deeds," whether with or without warranty.

By the laws of Iowa, "the word deed" is applied to an instrument conveying lands, but does not imply a sealed instrument." *Code of* 1860, *p.* 6, *Sec.* 20.

III. The legislation of Iowa, and the acts of its authorized officers in pursuance of such legislation, and prior to the passage of the joint resolution of 22d March 1858, authorized the governor to issue a patent in fee simple of these lands to the Des Moines Company.

(1.) By section 1st of an act of the General Assembly passed 19th January, 1853, (page 902 Revised Code of 1860,) the Commissioner and Register of the Des Moines River Improvement were authorized to "*sell and dispose of* all and any *lands which have been, or may hereafter be granted by Congress*, for the improvement of the Des Moines river," for the purpose of providing means to carry on said improvement: and by the section 2d of said act the same officers were authorized "*to transfer or convey in fee simple* or by other title, to any individual or individuals, company or companies, any portion or all of said lands."

There was no provision in the law requiring them to convey by formal deed—or patent—or under seal.

(2.) In pursuance of the authority thus conferred, a contract was made on 9th June, 1854, between the "State of Iowa" by the said officers, and the Des Moines Navigation and R. R. Company, which is set forth in the evidence.

By section 8 of the contract, the said State of Iowa "covenants and agrees" with said Company "to sell and convey" to said Company "all of the lands" donated by Congress by the act of 8th August, 1846, which the State had not sold prior to 23d December, 1853: and said Company agreed to purchase the same, and to pay therefor the sum of $1,300,000, as therein provided.

Said contract further provided, that whenever said Company had done work upon said improvement to the amount of $30,000, then "the said party of the second part (the State) or the then proper agent, or officer, or officers of the State shall transfer and convey "to said Company a quantity of land which at one dollar and a quarter per acre will amount to said sum of $30,000—

and so on from time to time, as the work progressed: until the sum expended should reach $1,300,000, when all the remaining lands should "be transferred and conveyed."

Both parties proceeded to act upon this agreement: and at the June Term of the Supreme Court of Iowa, in 1857, a case came before that Court which involved the validity of the contract. The case was, *State of Iowa, ex. rel. W. C. Johnson, Prest.* vs. *The Comr. of the Des Moines River Improvement:* in which that Court decided, that the said contract was "valid and subsisting, and binding upon the State," and that a subsequent act of the Legislature "was of no force or effect, so far as it treated the contract as invalid."

(3.) In execution of said contract, the proper officer of the State, the Register of the Improvement, did, from time to time, *certify* to said Company the lands, as fast as they were thus paid for.

(4.) By the law of the State in force at the time the contract of 9th June, 1854, was made, and subsequently, it was provided that "deeds in fee simple" should be given by the Governor and Register for all lands belonging to the grant which should be sold.

Code of 1860, p. 900, Sect. 23.

(5.) Under these laws and in execution of the contract of 9th June, 1854, the Governor had authority to execute the patents conveying the lands to said Company in fee simple—without reference to the joint resolution of 22d March, 1858.

The laws aforesaid were under the *old* constitution of the State. But,

IV. By the new constitution of the State of Iowa, adopted in 1857 ~~1857~~, "*all grants*, and commissions shall be in the name

and by the authority of the People of the State of Iowa, sealed with the great seal of the State, *signed by the Governor*, and countersigned by the Secretary of State."

The patents by the State to the Des Moines Company, in 1858, were executed in the mode prescribed by the new constitution—and were signed by the proper officers.

The lands were therefore duly transferred by the State to the Company: and at the next session of the General Assembly (January, 1860,) the Governor, in his opening message, informed that body, that "The settlement made at its last session by the Legislature with the Des Moines Navigation and Railroad Company, has been duly carried out according to the terms expressed."—And the Register of the State Land Office, in his official, report stated the details of the arrangement and (at page 34 of report) set out in *hæc verba* a copy of the patents issued by the State, conveying the lands in fee simple to said Company.

(See Journals of Legislature of 1860.)

Afterwards, and at the same session—

V. The General Assembly recognized the fact that the lands had been "transferred" and "conveyed" and "patented" to said Company.

(1.) By an act passed 3d March, 1860, (page 910, Revised Code of Iowa, of 1860,) in which 50,000 acres of the Des Moines Improvement lands were directed to be set apart for a specific purpose: which lands "shall be taken from the lands next above those *transferred by the State to the Des Moines Navigation and Railroad Company*, by the terms of settlement with that Company, authorized by joint resolution of the General Assembly, approved March, 22d 1858."

(2.) By an Act passed 2d April, 1860, (Code of Iowa, Revision of 1860, page 913-914,) relating to sundry lands, which had been *sold* by the State officials to private par-

ties, and had also been *sold* by the State to said Company: which Act recited that—

"Whereas the State of Iowa has, by *a settlement* with the Des Moines Navigation and Railroad Company, *conveyed* said lands in whole or in part to said Company," &c.

Sec. 6 of the Act provides that "any person who has made valuable improvements upon any of said lands *patented* to the Des Moines Navigation and Railroad Company *by the State* * * shall be entitled to receive the value of said improvements made before the passage of the *Act conveying said lands to said Company*, &c."

These Acts are a distinct and unequivocal recognition by the State:

(*a.*) That the lands have been "*transferred by the State*" to the Company "*by the terms of settlement*" in the joint resolution of 22d March, 1858.

And—

(*b.*) That "the State of Iowa, by a settlement with the Des Moines Navigation and Railroad Company, *conveyed* said lands to said Company."

And—

(*c.*) That the lands have been "patented" to the Company.

And—

(*d.*) That the joint resolution was an "*Act conveying* said lands to said Company."

This is conclusive to show that the joint resolution of 22d March, 1858, *ex proprio vigore*, conveyed the lands to the Des Moines Company as effectually as it

could be done by patent; also that the *patents* by which the formal transfer of title was consummated were fully authorized and duly executed, and have been recognized and confirmed by the State.

We thus see that the lands in question were transferred to Iowa by Acts of Congress, which *ex proprio vigore*, vested the title in the State without patent, and without any action by the Land Department; and that the title thus vested, related to, and took effect from the *inception* of the State's claim, which was the original grant of 1846, and the certificates issued thereunder; and that the title which the State acquired to the particular land in controversy in this suit has been lawfully conveyed by the State, and has become vested in the respondent.

But the appellant claims to have acquired title under the pre-emption law—by virtue of a settlement made in 1857—an entry allowed on the 10th April, 1860—proofs and payment made 30th May, 1862—and a patent issued thereon 15th October, 1863; and argues that the Court shall sustain the title thus made.

Waiving for the moment other objections, we submit as a proposition necessarily resulting from the facts in this case that, after 2d March, 1861, and 12th July, 1862, when Congress absolutely vested the title to the lands in the State of Iowa, no pre-emption could properly be allowed on any of them—nor any patent issued—nor can any right based upon any pretended pre emption of these lands be recognized or sustained by the Land Officers or by the Courts, for:

Fourth Point.—When Congress has *by express grant conveyed* certain specified lands, *the legal title to which was*

in the Government at the date of the grant, the disposition of the land thus made by Congress is final and conclusive; and neither the Land Office nor the Courts can thereafter divest the title which Congress has vested in the grantee. If in fact, at the date of the grant, there existed any equities in third persons which might have entitled them to patents from the Land Office, yet, as the legal title had remained in the Government, Congress could dispose of it absolutely; and such action by Congress is conclusive upon parties, and upon the Departments, and upon the Courts.

Such seems to be the understanding in the Land Department.

A case of this kind is reported in *Lester's Land Laws and Decisions*, *p.* 558–9, *No.* 589, where the Secretary of the Interior said: "But in this case, while a contest for the legal title is pending before the executive branch of the Government, the legislative branch interposes, confirms the claim of one of the contestants, and orders the legal title to be given to him. This requirement of the legislative power we obey, *without enquiring which contestant has the superior equity at the date of confirmation.*"

And so the Department has acted in administering this very grant. At pages 93 and 94 of the record are copies of four decisions of Mr. Browning, late Secretary of the Interior, upon claims for pre-emption upon some of these lands which came before him on appeal from the Land Office. In all these cases the Secretary rejected the claims for pre-emption, basing his action upon the *sole ground* that the title of the United States had been relinquished to the State of Iowa, by the Joint Resolution of Congress of 2d March, 1861; and in the case of Hull, which is the latest decision, the Secretary directed that the "decision be made applicable to all similar cases"

And so this Court thought in 4 *Howard*, 464, *Les Bois* vs. *Braunell*, when it was said: "There being two adverse claims to the same land, equally inchoate, and the Government being unable to confirm both, was under the necessity of determining between them; and *having granted the land to the one, necessarily rejected the pretensions of the other to the same land.*"

To contend that such action by Congress may be reversed by the Courts, upon the ground that Congress has mistaken or disregarded the equity of the case, is to contend that Courts have legislative as well as judicial power; to say that it may be done by the Land Office is to say that the ministers of the law are superior to the law makers.

We are aware that there are many cases in which patents for land have been issued by the Land Officers to parties who had not the superior equity at the time; and that in such cases, Courts decree the land to the parties properly entitled. But such cases are entirely different from the one under consideration.

In every such case, the error complained of, and which the Courts assume to correct, is an error *committed by the Land Officers;* and the error always consists in the fact that their action has *been contrary to law.*

Such are contests between different patentees of the same land; when the Courts decide which has the true title.

So a pre-emption claimant may insist that he is entitled to the land, as against the party to whom the Land Officers issued the patent; and if the Courts so find, they protect his rights and direct the land to be conveyed to him.

So when a party holds a title by direct grant from Congress, without a patent, he may maintain his right as against the holder of the patent—and the Courts pronounce the patent void.

And in all cases, when for any reason the patent issued by the Land Officer is void, the Courts so pronounce it.

But *all these are cases where the Land Officers*—the creatures and ministers of the law—*have acted against law;* and therefore their action is held to be void.

But in the case under consideration—Congress, *the law making power*—takes a certain portion of the public domain, and by *a law*, and in terms of specific description *grants it* to the State of Iowa, and by appropriate language *vests the title in the State.* Can that act be reversed by the Land Officers, or by the Courts? Clearly not.

Can any case be found where the Courts have set aside a grant

of public lands made by Congress, while the legal title was in the Government, upon the ground that some individual other than the grantee had an *equitable* claim to be *permitted* to buy the land? When Congress by a law transfers a portion of the public domain and vests the title in the grantee, can Courts enquire whether there are not outstanding equities, which will justify them in disregarding the law thus made? We do not so understand it. Congress makes the laws—the Courts interpret and enforce them, and never disregard them, unless they conflict with the Constitution, which is the supreme law.

It is true that if Congress should attempt to grant land, *after the title of the United States had already been transferred* in any of the modes known to the law, the attempt would fail; and in such a case the Courts would vindicate the title of the true owner.

If, therefore, any individual can show that he has acquired *a legal title* to land, it is beyond the power of Congress to deprive him of it by granting it to some one else; whether that title is acquired by pre-emption or purchase, or in other legal manner, is of no importance. But if he has nothing more than an *equitable claim*, he must of necessity trust it to the judgment and decision of Congress; for, *as long as the legal title remains in the United States, Congress possesses the exclusive control over it.*

To-day Congress permits the Land Office to sell some lands at a dollar and a quarter an acre; and requires two dollars and a half per acre for other lands: May it not increase or diminish the price at its pleasure?

To-day it authorizes pre-emptions and homestead entries on certain terms: May it not change the terms to-morrow?

To-day every acre of the public domain which is open for private entry, is also open to settlement by parties seeking pre-emptions; yet to-morrow Congress may grant millions of acres for railroads, and may reserve the alternate sections, and may deprive the parties who had intended to pre-empt of an opportunity to do so.

To-day an individual may settle upon land, intending to perfect his title by payment and pre-emption: and to-morrow Congress may reserve the land, or may absolutely grant it, and

thus deprive the settler of an opportunity of perfecting his title.

To-day the State of Iowa may claim certain lands under a disputed interpretation of an Act of Congress, and an individual may claim the same land by settlement, with a view to pre-emption; to morrow Congress may confirm the title to one of the claimants, and thus absolutely and forever bar the claim of the other. Both claims being inchoate, and neither of them having been consummated, the legal title remaining in the Government, Congress possesses the uncontrolled power of disposition of it; and its action is final.

Suppose it should, in any instance, disregard what might seem to be the equity of the case. What, then? There is no remedy, except by petition for relief.

In all cases of conflicting claims some superior power must decide between them.

In cases of conflicting claims, to any portion of *the public domain*, Congress must decide. It may allow its officers in the Land Department to act; and then the Courts will see that they act in accordance with the rules which Congress have *by law* prescribed: or Congress may act itself, and *by law* determine between the claimants, and decide that the title shall be given to one in preference to the other: and such action is final.

While lands form a part of the public domain, Congress has absolute power to determine between claimants, with merely *equitable* claims; but when the title has passed from the Government, then the Courts will decide and protect the better title.

In this case the appellant claims under a patent issued October, 1863.

We reply that the patent was absolutely null and void, because by the acts of March, 1861, and 12th July, 1862, Congress had already parted with all the title of the United States.

Thereupon the appellant says that the title made by the patent relates back to and takes effect from the appellant's *entry*, which was prior to 1861; but we insist that as Congress had *absolutely granted* the land to Iowa *prior to the date of the patent*, it was *void*, and could not relate back so as to attach itself to the entry, and be thereby made to overreach the grant to the State, and thus make a void patent into a legal title.

Upon this branch of the case we submit the following propositions:

I. If the grants of land made by the acts of Congress to Iowa relate back to and take effect from *the inception* of the State's claim under the act of 8th August, 1846, then no pre-emption or other disposition of the land by the Land Office is valid, unless it is based upon an equitable claim existing against the Government *prior to the 8th Aug.*, 1846.

And:

II. If the Joint Resolution of 2d March, 1861, and the act of 12th July, 1862, did not relate back so as to have that effect, still they were valid and complete dispositions of all the title of the Government *at those dates;* and as the Government then had a good legal title to the lands, it was by Congress transferred to the State of Iowa and its grantees.

And:

III. The title of the Government having been *by a law* of Congress vested in the State of Iowa and its grantees, that law is as binding upon the Department and the Courts as any other law; and it is not competent for the Department or the Courts to refuse to execute it, on the ground that there are outstanding equities in individuals which might have entitled them to pre-empt the lands, if the law in question had not been enacted.

And:

IV. If it were to be conceded that such equities do exist (which we do not admit), still we insist that from the necessity of the case, Congress has the undoubted power to determine between conflicting claimants to the public lands, and that the absolute transfer of title to the State of Iowa and its grantees, made by Congress on the 2d March, 1861, and 12th July, 1862, cut off and extinguished all prior and *merely equitable* claims in other parties.

And, as a necessary consequence:

V. No patent, issued from the Land Office, and *dated after the 2d March*, 1861, can convey any title to any of the lands included in the certificates, mentioned in the Joint Resolution of that date; *provided only*, that at the date of that resolution, the legal title to the lands was in the Government.

But if we are mistaken in the foregoing views, still we insist that the appellant's patent is null and void—for the reason that—

Fifth Point.—The lands in question were reserved at the time of the appellant's pretended settlement and entry, and were therefore not liable to be taken upon pre-emption.

All the facts shown in the Wolcott case, 5 *Wallace*, 681, which were held by this Court to constitute a reservation, are shown in this case.

It is sufficient, therefore, to say that in the case in 5 *Wallace*, this Court made an elaborate analysis of the acts of the executive officers, and distinctly decided that they constituted a reservation of the lands, and that such reservation was made by "competent authority," so that they saved the land from the operation of a positive grant made by an Act of Congress of 15th May, 1856.

We suppose, therefore, that we might properly assume that they were "reserved" in the sense intended in the pre-emption laws.

But the Appellant seems to suppose that the word "reserved" as used in the pre-emption laws, is to have a meaning different from what is to be given to it in other cases: but we can see no reason for any such distinction.

In 9 Cranch, 11—14, Meigs *vs.* McClung's Lessee, this Court

held the word "reserved" to be equivalent to the words "set apart."

In 24 Howard, 294, Clements *vs.* Warner, the Court considered that a "temporary withdrawal of lands from market" to satisfy a supposed grant of Congress, "reserved" them.

In 5 Wallace, 681, as we have seen, the Court took the same view.

So the Land Officers understand the meaning of the term—for in this very case, the Commissioner, by notice 661, speaks of these lands as having been heretofore "reserved" on account of the claim made under this grant; and gave notice that they would continue "reserved." (Record p. 35.)

And so it is understood by the Interior Department, (Lester's Land Laws, p. 520). The Secretary speaks of bringing again into market, lands heretofore "reserved" for railroad purposes: and of the determination not hereafter to "withdraw lands" for such purposes—using the terms as convertible.

And Congress has recognized the same definition of the term. By Act of 27th March, 1854, entitled "An Actfor the Relief of Settlers on Lands 'reserved' for railroad purposes," Congress enacts "that settlers on public lands which have been or may be *withdrawn from market* in consequence of proposed railroads, and who had settled thereon prior to such *withdrawal*," &c., shall have certain privileges. The word "reserved" in the title of the Act is used as the equivalent of the words "withdrawn from market" in the body of the act.

The particular mode in which, or the particular lawful authority by which, lands are reserved, cannot be important; but all lands reserved from sale, whether by treaty, or by Act of Congress, or by proclamation of the President, or by order of the Land Office, or by any other competent authority, are thereby placed in such a position, that they are no longer liable to be taken upon pre-emption.

In the present case, when in March, 1849, Secretary Walker decided that this grant extended above the Raccoon Fork to the northern boundary of the State, he sent a copy of his letter to the Commissioner of the Land Office for his "information and *government on the subject to which it refers.*" This was an order

to the Commissioner; and on 1st June, 1849, the Commissioner communicated this decision to the Local Land Officers, and informed them that the Secretary had "decided that the grant extended along the Des Moines River *to its source*, and did not stop at the Raccoon Fork"; and he added "You are hereby *directed to withhold from sale all lands situated in the odd numbered sections within five miles on each side of that river above the Raccoon Fork;* enclosed I send you a diagram upon which *the State selections above that point* are colored yellow."

This shows that the States selections under the Act of 8th Aug., 1846, were known to, and approved by, the Land Office, at least as early as 1st June, 1849, and were then by special order, withdrawn from market and reserved.

The Commissioner also said in his letter, "The diagram extends to 83 N. 26 W., *being as far as the surveys have progressed in that direction.*"

Now, it will be observed that this order reserved "*all the lands* situated in the odd numbered sections" "to the source" of the river; but as the surveys had only progressed to township 83 north, no lands beyond that township could have been in the market at that time, and, as fast as surveyed, the lands were listed and certified to the State under the grant. And the lands lying north of 83, and included in the certificates issued to the State under this grant, have never been put in market, nor offered at public sale by the Government.

It is not necessary to fatigue the Court by reciting the various orders and proceedings of the Executive Officers by which the reservation thus made of these lands was continued.

Having shown this positive order of the Land Office, "withdrawing" all the lands on 1st June, 1849 (received by the local Land Officers 16th June, 1849,) followed up and carried out by the official certified lists of 1851 and 1852, we suppose that it is to be *presumed* that this reservation was continued in force, and that the *onus* of proof lies upon the party attacking our title, to show that this reservation was in some legal manner removed, and it is for the appellant to show that this was done prior to 1862, when the pretended entry was made.

Upon this branch of the case the Court said, in 5 *Wallace*,

681, "It has been argued that these lands had not been reserved by competent authority, and hence that the reservation was nugatory. As we have seen, they were reserved from sale for the special purpose of aiding in the improvement of the Des Moines River, first by the Secretary of the Treasury, when the Land Department was under his supervision and control, and again by the Secretary of the Interior, after the establishnent of this department, to which the duties were assigned, and afterwards continued under this department, under instruction of the President and Cabinet. Besides, if this power was not competent, which we think it was, ever since the establishment of the Land Department, and which has been exercised down to the present time, the grant of 8th Aug., 1846, carried along with it, by necessary implication, not only the power but the duty of the Land Office to reserve from sale the lands embraced in the grant."

The reservation thus established has never been removed, or attempted to be removed, by any public act or notice of the Land Department.

The decision there made is conclusive upon the question of reservation here presented.

But the appellant attempts to distinguish between that case and this in several particulars, and also insists that by the decision of this Court, in 23 *Howard*, 66, that the grant made by Act of 8th August, 1846, did not extend above the Racoon Fork, the *reservation* of the lands which had been previously made by the executive officers to satisfy the grant supposed to have been made by that act, was *ipso facto*, and, without any act or order by the land officers, removed, and that the land thereupon became liable to be taken for pre-emption, and that, therefore, the appellant's entry was valid, and the patent issued thereon made a good title.

We insist upon the contrary view, and say:

Sixth Point.—The reservation of the lands made by the executive officers, and which, in 5 *Wallace*, 681, was determined

by this Court to have been made by competent authority, was not removed by the decision of this Court in 23 *Howard*, 66, but was in full force when Congress passed the Joint Resolution of 2d March, 1861, and the Act of 12th July, 1862; and the objections made by the appellant's counsel to the force and effect of such reservation are not well founded.

Consequently—as no lands which are "reserved" for any purpose whatever are liable to be taken for pre-emption—the appellant's patent of October, 1863, founded upon such a pre-emption is null and void.

I. The decision of this Court in 23 *Howard*, 66, did not of itself release these lands from reservation.

In that case, the Court expressed no opinion as to the effect of the acts of the executive officers under the law of 8th August, 1846, except that these acts did not transfer a title because Congress had not granted it.

The Court then said that the attempt of the Executive Officers to make partition outside of the grant was merely nugatory; but the Court did not anywhere declare that their proceedings in reserving the lands were void, because they had acted upon a misconstruction of the law.

No question of *reservation* was presented or argued, or decided in that case.

Neither the Land Department—which had made the reservation—nor the State for whose benefit it was made, were parties on the record: and it seems almost absurd to claim that the executive and administrative acts extending over a period of fifteen years, and upon which the title of the State and its grantees depended, could be at once deprived of all their force and effect in that collateral proceeding.

It is true that the Court decided upon the proper construction of the grant: and, according to that construction, the State and its grantees could be deprived of the title which, until that time, they had supposed that they possessed.

We say—*could be deprived*—for all depended upon the decision of Congress. If Congress should choose to ratify

the acts of its officers, then the title would be made good. If, on the other hand, Congress should refuse to do so, and the United States should take proper steps to cancel their acts of reservation, and of intended transfer, then, *and only then*, the State and its grantees would lose the lands.

To hold that the decision in 23 *How.*, 66, *ipso facto*, removed the reservation of the lands, and enabled all the local land officers to offer them at once for sale and pre-emption, would not only be doing a great wrong to the State and its grantees by complicating the titles which they held under apparent transfers from the Government, and which Congress afterwards confirmed, but it would also be contrary to the established practice of the Land Department in such cases: for when lands have once been duly reserved it is not customary, nor deemed legal, to permit them to be afterwards purchased at private sale, or taken by pre-emption, until after thirty days formal public notice, by advertisement from the Land Department that they are restored to the mass of public lands.

3 Opinions Atty. Genl., 650.
8 Opinions, 16.

II. The reservation of these lands, made by the executive officers, was a good and valid reservation, notwithstanding this Court afterwards decided that the officers had acted upon a mistaken construction of the law; and the reservation, thus made, had the same effect in withholding the lands from private entry and pre-emption as if it had been made upon a proper construction of the law.

By the pre-emption acts no lands are liable to be taken which are "reserved" for *any purpose*.

The argument of the appellant's counsel seems based upon the idea that a reservation, in order to cut off a pre-emption claimant, must be a reservation for the *actual use* of the United States—as for a military station. But the language of the pre-emption law of 1841 is "*reserved* for saline *or other purposes*." It is *the fact* of reservation which determines the *status* of the lands and decides whether they are, or are not, liable to pre-emption. When

the land officers *withdraw* lands from sale, or *reserve* them for any purpose, they cease to be open for private entry or pre-emption.

This must be so from the necessity of the case: for it is the duty of the land officers, when public grants of land are made, to reserve from sale all the lands which they decide to be embraced in the grant. It was particularly so in this case: for the grant was of a "moiety" of an undivided tract: and the granted lands were to be taken "in alternate sections—to be selected by the State—*subject to the approval of the Secretary of the Treasury.*" The Act of Congress itself thus made it the duty of the Secretary to determine the extent of the grant, in order to fix the limits within which the State could make its selection; and having determined the *extent* of the grant he had authority and it was his duty to reserve the lands from sale: and when he made such decision and reservation, the lands became thereby *legally reserved*, although he may have erred in his construction of the law; and they remain so reserved until the *acts* by which the Department has made the reservation are legally cancelled.

How can they be cancelled?

It is insisted, on the other side, that if the decision of this Court in 23 *How.*, 66, did not remove the reservation, yet that the land officers who made the reservation could remove it; and that the act of allowing a pre-emption, and issuing a patent, is of itself a removal of the prior reservation as to the particular land involved in this suit.

But we submit:

III. The acts by which the Executive officers reserved these lands and appropriated them to satisfy the grant of 8th August, 1846, could not be cancelled by the same officers, or their successors; but as private rights had intervened, this could only be done by *judicial* sanction upon a direct proceeding instituted for that purpose.

The approval of these lands under the grant of 8th August, 1846, and the certified copies of the approved lists, issued

to the State, were formal official acts—which were understood and intended to separate all these lands from the public domain, and appropriate them to Iowa under that grant. The Act of Congress conferred upon the Secretary the *power of approving* the selections which the State should make, and under this authority these approved lists were made. The List is entitled "a List showing the lands * * * falling to the State of Iowa under the Act of 8th August, 1846, &c. (Record, p. 41,) and in signing it the Secretary says: "The *selections* embraced in the within list are hereby approved," &c. (Record, p. 45.) At the time and for many years afterwards, this was understood by all the executive officers to have taken these lands out of the public lands and to have fully transferred the title to the State of Iowa. The question now is not whether such lists were properly approved; nor whether they could have the legal effect which the Department intended; but the question is, whether these formal acts, which the Department intended as acts of transfer, did not have the same effect as if the Department had issued patents instead of approved lists and certificates? We insist that these approved lists and certificates were, in legal effect, in all respects like patents; if issued in cases and for lands included in real grants, then, like patents, they conveyed the title; if, on the other hand, they were issued for lands which had not been granted, then, like patents issued under the same circumstances, they might be declared void.

But all these attempted transfers of title, whether by patent or by certificate, are good against the Government and all junior titles until *judicially* cancelled and set aside; and no executive officer can cancel either of them of his own power, and without the order of a Court.

This is evidently so understood by the land officers. Mr. McClellan, a former Secretary of the Interior, (page 554 of Lester's Land Laws and Decisions,) in speaking of one of these approved lists, says, he "*can no more of his own motion revoke or cancel any part of an appproved list* after it has passed from him *than a patent for land after its delivery.*"

In 3 *Wallace*, 478, *Beard* vs. *Federy*, the Court, in speaking of the effect of a patent, (and these approved lists stand upon the same footing as patents,) says: "In the first place it is a deed, &c.—In the second place, it is record evidence of the action of the Government upon the title of the claimant; * * *as against the government, this record, so long as it remains uncancelled, is conclusive*; and it is equally conclusive against parties claiming under the government by title subsequent."

In 7 *Wheaton*, 212, *Hoofnagle* vs. *Anderson*, this Court said, "If the patent has been issued irregularly, the government may provide means for repealing it; but *no individual has a right to annul it, to consider the land as still vacant, and to appropriate it to himself.*"

In 2 *Wallace*, 525 *United States* vs. *Stone*, this Court had occasion to decide upon a case where a former Secretary of the Interior had attempted to cancel an official act of his predecessor and to annul a patent issued by him; but this Court said, "The Secretary of the Interior transcended his authority when he attempted to overrule the acts of his predecessors." In the same case the Court stated the effect of a patent as follows: "A patent is conclusive against the government, and all claiming under junior patents or titles until it is set aside or annulled by some judicial tribunal. * * Patents are sometimes issued unadvisedly, or by mistake, or where the officer has no authority in law to grant them. * * In such cases Courts of law will pronounce them void. The patent is but evidence of a grant, and the officer who issues it acts ministerially, and not judicially. If he issues a patent for land reserved from sale by law, such patent is void for want of authority. But *one officer of the Land Office is not competent to cancel or annul the acts of his predecessor. That is a judicial act, and requires the judgment of a Court.*"

As the Secretary of the Interior could not, without judicial sanction, set aside a patent for a single section of land even in that case where it was void as the Court afterwards pronounced, it can hardly be seriously contended that he had power without notice to revoke or cancel the

approved lists upon which Iowa and its grantees have relied for nearly twenty years, as their evidence of title for hundreds of thousands of acres.

These approved lists are official acts, upon which the rights of parties depend, like patents, and can only be cancelled by a judicial proceeding instituted directly for that purpose.

2 *Wallace*, 525, *United States* vs. *Stone*.
4 *do.* 236, *Hughes* vs. *United States*.

Until this is done they remain outstanding in the hands of the State and its grantees, and with such effect as the law gives them.

After the decision in 23 *How.*, 66, (and without the aid of further legislation by Congress,) it could not be contended that they conferred a good title *as against the Government*, if the Government chose to insist upon its legal rights; but *in every other respect*, until judicially cancelled, they had the same effect as if they had been properly issued.

One of these effects was to *appropriate* these lands, and *set them apart* from the mass of the public domain. They were separated from the lands which the Government had on hand to dispose of. Those included in the approved lists were considered by the department as *disposed of*, and as belonging to the State under the grant of 1846. So far as the Department was concerned these lands *were disposed of*. Its *acts* were binding upon itself, and the Department could not afterwards, in any mode, transfer them to other parties, while its formal approved lists were outstanding and uncancelled. As well might the Department issue new patents in every case where it had reason to suppose that former patents issued by it were improperly issued, and, without first taking the necessary steps to cancel the outstanding patents. In 1856, Secretary McClellan, then in charge of the Interior Department, adopting and acting upon the legal opinion of Att'y Gen'l Cushing, decided that the title to all the lands embraced in the approved lists, given in this case, had been vested in the State of

Iowa, and that the United States had no title remaining in them; and for that reason he refused to issue patents for them, as "that would be assuming that the title has not yet passed."

Lester's Land Law and Decisions, 507.

And we submit:

IV.—While such approved lists remain uncancelled, they effectually separate the lands approved from the public domain; and appropriate them for a special purpose; and the lands embraced in the lists cease to be "*public lands*," within the meaning of the pre-emption laws, and no such lands are open to preemption: and the approved lists and certificates, in and of themselves, operate to *reserve* these lands.

The appellant argues that the various letters, orders, opinions and notices, &c., given in evidence, do not prove that this *particular* land was reserved at *the particular day* of entry; and he refers to evidence given on the trial as to whether or not a certain notice of the Land Commissioner, ordering the reservation of these lands to be continued after the decision of this Court, in 23 *How*, 6 , was received at one of the local land offices.

We do not propose to follow this line of argument.

This is a question of title to lands which the State has claimed to own, and has been selling as its own ever since it was admitted into the Union; and it seems to the respondent that his title depends upon, and is maintained by, public laws, and can be abundantly proved by public records, and that it is neither necessary nor seemly to bring it down to a matter of recollection of a witness as to whether or not an official notice was posted upon the walls of his office. We prefer to rest our claim upon the laws and the records made in pursuance thereof; and we respectfully insist that the approved lists made under the Act of 8 Aug. 1846, certified copies of which were furnished to the State as evidence of its title, were, *in every legal sense of the word, records*, and that they are to *have the effect of records*, as much so and to the same extent as if they had been *patents*

for each parcel of land, instead of being an approved list of the entire amount.

If we are correct in this view then *the fact of reservation*, and of *appropriation*, and of *separation from the public domain*, so as to prohibit these lands from being taken on pre-emption is proved in these cases by the approved Lists themselves, which will remain as permanent records of the Land Office, until judicially set aside; and it cannot be necessary to resort to parol testimony on the subject; for the Approved Lists are in and of themselves conclusive evidence that the lands embraced in them are not "public lands," and "liable to private entry"; and cannot, therefore, be taken on pre-emption. So also these lists are conclusive evidence of the fact stated by them that "on the 16th June, 184[illegible]," the Land officers received the letter of [illegible]st June, 184[illegible], from the General Land Office, (found at page 31–32 of Record,) which letter communicated the decision of the Secretary that the grant extended *above* the Raccoon Fork, and directed the local land officers to withhold from sale all the lands in question; and this Court will presume that the local land office to which such order was sent, was the Land office having jurisdiction in the premises.

(Record p. 49).

The appellant's counsel argues that the approved lists in question are governed by the Act of Congress of 3d August, 1854, cited by him: and that according to its terms they are null and void. In reply we say that the approved lists now in question were made under the Act of 8th August, 1846, before the law of 3d August, 1854, was enacted: and the Act of 1854, by its terms, does not relate to an Act of Congress like that of 8th August, 1846: for as we have already seen, that act conveyed the fee-simple title to the lands as this Court determined in 23 Howard, 66: but the Act of 1854 relates only to cases where the Act of Congress does *not* convey the fee-simple title.

It is argued, on the other side, that the reservation that will exempt lands from being taken on pre-emption, must be a reservation made by Congress—and that a reservation,

made by the Land Office without an Act of Congress, is not sufficient for that purpose.

We understand the doctrine of this Court, as laid down in 13 *Peters*, 499, *Wilcox* vs. *Jackson*, and all subsequent cases, to be—that by the General Land System of the Country, the President has power to reserve lands; that when such reservation is made by the head of a Department it is assumed to be done by order of the President; and in 5 *Wallace* 681, *Wolcott* vs. *Des Moines Company*, the Court held that this power had been possessed by the General Land Office ever since it was established. And the Court also held that "the law of 8th Aug., 1846, by necessary implication, carried along with it *not only the power, but the duty*, of the Land Office, to reserve from sale the lands embraced in the grant."

The appellant answers that the lands in question were not "embraced in the grant" made by Act of 8th August, 1846, and that therefore, the decision in 5 *Wallace* is not a conclusive authority upon that point.

We think that this criticism is founded upon a misapprehension of the scope of that decision. We understand this Court, in that case, to decide that the Act of 8th August, 1846, carried along with it, by necessary implication, the power and duty of reserving the lands which the Land Office, in the exercise of its official discretion, *should decide to be embraced in the grant.* It was the duty of the Secretary, under that act, to permit the State to select one-half of the lands within the limits of the grant; and it necessarily followed that he must first determine the extent of the grant. Having done so, and decided that it extended to the northern boundary of the State, the act gave him power and made it his duty to reserve from sale the lands included within the limits thus fixed by him. Whether he made a mistake or not in his construction of the law, as to the extent of the grant, the reservation would be good. Such we understand to be the meaning of the Court upon this point,

for it added "that there was a dispute existing as to the extent of the grant of 1846 in no way affects the question. The serious conflict of opinion among the public authorities on the subject, made it the duty of the Land Officers to withhold the sales and reserve them to the United States until it was ultimately disposed of."

If we have correctly understood that case, it decides that, without any special Act of Congress, except the Act making the grant, the Land Officers had power to make, and did make, a valid, legal reservation of the lands in question. Any legal *reservation* for *any purpose* will prevent the lands from being taken, upon pre-emption, by the appellant.

V. No lands are liable to pre-emption except "public lands;" and no lands are to be considered "public lands" for pre-emption purposes which have been *appropriated* in any lawful manner, even if no formal, or technical reservation has been made of them.

"Appropriation" and "reservation," as applied to the public lands, are not, in all respects, of precisely the same meaning—but whenever any of the public lands have been in any lawful manner "appropriated" they cease to be "*public* lands," and therefore are not liable to pre-emption.

In 7 *Wheaton*, 212, Hoofnagle *vs.* Anderson, it is said: "It is not doubted that a patent *appropriates* land;" and this too even if the patent was improperly issued.

The Court said, "the Government may provide means for repealing it, but no individual has a right to annul it, to consider the land as still vacant, and to appropriate it to himself."

So, in 1 *Peters*, 628, Jackson *vs.* Clark, a survey was held to "appropriate" lands—and whether the survey was legal or illegal did not affect the question. Even if illegal,

it did not authorize an individual to treat it as illegal, and locate upon the land himself. The Court said, "the illegality of the survey would not have been examinable by him."

In 13 *Peters*, 498, Wilcox *vs.* Jackson, this Court defined the meaning of "appropriation" and stated its effect. "An appropriation is nothing more nor less than setting the thing apart for some particular use." In the same case the Court said, "whenever a tract of land shall have been once legally *appropriated* to any purpose, from that moment the land thus appropriated *becomes severed from the mass of public lands*; and no subsequent law, proclamation, or sale would be construed to embrace it, or to operate upon it, *although no reservation was made of it.*"

In 4 *Wallace*, 218, Witherspoon *vs.* Duncan, this Court defined the precise time when lands cease to be "public lands" and become private property.

"In no just sense can lands be said to be *public lands* after they have been entered at the Land Office, and a certificate of entry obtained. If public lands before the entry, after it they are private property. * * The contract of purchase is complete when the certificate of entry is executed and delivered, and thereafter the lands *cease to be a part of the public domain.*" And the Court proceeded to show that there was no difference in this respect between a purchase for cash and a donation entry, under an Act of Congress. "In *either* case when the entry is made *and certificate given*, the particular land *is segregated from the mass of public lands*, and becomes private property."

And we submit:

(1.) Whenever the Government does any act which separates lands from the general mass—as by giving certificate of sale—or by approving and listing them, as

embraced in grants supposed to have been made by Congress—or by issuing patents for them—or by withdrawing them from market—or by reserving them for any purpose—in each of these cases the land from that moment is appropriated, and ceases to be "public lands" within the meaning of the pre-emption laws.

(2.) This effect follows, no matter whether the officer of the Government making this appropriation of the land, has understood his authority correctly or not in that particular case, if it was in the general line of his duties. The effect of this appropriation continues until the Government, in some unequivocal manner refuses to be bound by the acts of its officer, and procures it to be properly cancelled.

(3.) In the case under consideration the Acts of the Land Department in withdrawing these lands from market, and in executing the approved lists and certifying the lands to the State, constituted an "appropriation" of them—and withdrew them from the class of "public lands"—which alone are liable to pre-emption. Even if the officers acted without authority in making such appropriation, this could be insisted on only by the Government. "No individual has a right to consider the land as still vacant, and appropriate it to himself," by pre emption, or by purchase.

VI.—Appellant's entry was not valid, unless the land was *at the time* public land *subject to sale.*

No lands are liable to pre-emption, except such as are at the time subject to sale.

The pre-emption laws permit settlers "to enter" a limited quantity of the public lands.

This right is to be deemed limited to *that description of lands* which is at the time liable to private purchase at the Land Offices. It was so held by this Court, in 12 Wheaton, 586. Chotard *vs.* Pope, where this Court said:

"The right 'to enter' is *identical with the right to purchase at private sale*, and confined to the appropriating of such lands as may be legally appropriated by entry at the Register's Office—from which are excluded all lands previously appropriated, whether by public sale, or by being withdrawn from the mass of lands offered for sale."

In the case under consideration, appellant made payment by locating a military warrant for 160 acres, issued under Act of 3d March, 1855.

(Record, p. 80.)

Section 5 of said Act of Congress provides that such warrants can be located *only* on "public land which is *at the time subject to sale.*" Lester's Land Laws, p. 252–3.

As already stated the lands in Township 89, north, *have never been offered by the President for sale; and have never been liable to private entry.* And after Congress passed the Joint Resolution of 2d March, 1861, it can hardly be pretended that they were *subject to sale.*

VII. The preemption laws do not vest in any settler any *right* to the lands occupied and improved by him. They give him only a contingent right to become the first purchaser of the land without competition, when it shall be brought into general market. And *at any time before proof and payment are made* by the settler, the Government may reserve the land from sale, or may dispose of it by grant, and thus deprive him of the privilege conferred by the preemption laws.

10 Opinions, Atty. Genl., 56.

The appellant claims to have made an application for permission to enter this land on 10th April, 1860, and to have made proofs and payment on 30th May, 1862, and to have a patent dated October 15, 1863.

(Record, p. 78–81.)

And the counsel thereupon argues that the *right* to preempt became vested on 10th April, 1860.

We do not so read the pre-emption law. Section 12 of the Act of 1841 provides that "*prior to any entries being made* under and by virtue of the provisions of this act, *proof of the settlement and improvement thereby required shall be made* to the satisfaction of the register and receiver, &c."

And by Section 10 of the Act, the claimant can only "enter" the land "*upon paying to the United States* the minimum price."

No "entry" is complete until the party has furnished the required proofs, *and* made payment; and no *right* attaches to the land until *both* these things are done.

Such seems to be the view of Attorney General Bates in the case referred to in 10 Opinions, 56; for he holds that at any time before proof "*and* payment" the Government may reserve the land, and thus deprive the settler of the privilege of preemption.

In the case under consideration the counsel claims that the appellant's *right*, whatever it was, was vested on 10th April, 1860.

We, on the contrary, insist that if the appellant shows any right to preemption, that right took effect as against the Government only at the date of making proofs *and* payment, on 30th May, 1862. And this latter date was long after Congress had relinquished "all its title" by the Joint Resolution of March 2d, 1861.

If this were a ~~contract~~ between two claimants under the preemption laws, each claiming to have settled on the same land, then under the provisions of Section 11 of Act of 1841, the party "who made the first settlement" would have the best right. And in such a case a junior patent, based upon "the first settlement," might be held to prevail against the older patent, based upon the second settlement. But such is not this case.

Here the question is whether preemption can be allowed *at all*, in *any lands*, after Congress has, by specific grant

transferred the title in these lands to the State of Iowa? Whether there is any force in a preemption claim, where the proofs and payment were made 30th May, 1862, as against the Act of Congress relinquishing "all the title" of the United States on the 2d March, 1861? If "all the title" which the United States had in the lands was relinquished on 2d March, 1861, what remained to be taken by appellant's "entry" on 30th May, 1862, or to be conveyed, by the patent of 15th October, 1863?

VIII.—The lands in question were *actually reserved* by Congress by the several Acts establishing Land Offices in Iowa.

(1.) By an Act passed on the same day on which this grant was made, 8th August, 1846, a new land district was established to embrace Townships, 76–83 inclusive, (which embraced a large quantity of lands included in this grant:) and the President was authorized to offer the public lands in such district for sale "*with the exception of*" the school sections "and of such other tracts as *he* may *select* for military *or other purposes.*"

Lester's Land Laws, p. 121.

(2.) By Act of 2d Aug., 1852, establishing three additonal land districts in which power was given to the President to sell the public lands, "*with the exception*" of the school sections, "and of such other tracts as *he may select* for military *or other purposes.*"

Lester's Land Laws, p. 187–8.

(3.) By Act of 3d March, 1855, which changed the boundaries of the land districts, and established the Fort Dodge District, and the Fort Des Moines District.

In these two districts are situated all the lands belonging to the Des Moines river grant above the Raccoon Fork. Consequently, these are the only lands in respect to which it is important to know if they were legally reserved.

By Sec. 3, of this Act, the President is authorized to cause the public lands to be sold "*with the exception of*" the school sections "and *such other tracts* as *may be selected* for military *or other purposes.*"

Lester's Land Laws, p. 254.

By the first two acts, Congress specially excepts from sale such tracts as the *President* may "select" for any purpose; and as the President acts through the departments, this would operate to reserve all lands which the Interior Department should "select" to satisfy the grant of 1846. And by the Act of 1855, Congress reserved from sale "such *other tracts* as *may be selected* for military or other purposes." This is an actual reservation by Act of Congress. The language of the act, "which may be selected," may mean the tracts which were *then already* selected to satisfy the grant of 1846, for by the terms of that act, the lands granted to the State were "to be selected" by agents appointed by the Governor; or they may mean tracts which should be selected by the State or by the Secretary of the Treasury, under the Act of 1846, or by the Land Officers for any purpose.

At the date of the passage of this Act of Congress, in 1855, 271,572$\frac{24}{100}$ acres of lands above the Raccoon Forks had been "selected" by the State, and the Secretary of the Treasury had approved the "selection" by lists which were then outstanding as enuring to the State under the grant of 1846. All of the lands so selected and approved were situated in the two new land districts established by the Act of Congress; and the presumption is that these identical lands which had been so "selected" were intended to be reserved by the provisions of this Act. The members of Congress from Iowa must have been perfectly well aware of all the facts in the case, and it is fair to suppose that they were mainly instrumental in procuring the passage of the Act providing for additional land districts, and intended to guard against the possibility of the lands which had been "se-

lected" by the State, being afterwards sold by order of the President. At all events, as they were in fact "selected" for that purpose, the law operated to except them from the lands which the President was authorized to sell, and to reserve them.

We cite these acts to show that as soon as these "selections" were made—whether by the President or by the Land Officers, or by the State—then the Act of Congress immediately attached to them and *reserved* them—for it *excepted* from sale the tracts so "selected."

We think that these various acts are sufficient to show a distinct reservation of these lands "by law;" and that therefore none of them could be taken upon pre-emption.

Many criticisms are made by the appellant, as to the various executive orders and proceedings given in evidence, and their effect, which we cannot notice without protracting this argument beyond excuse.

But we refer to the notice No. 661, from the Land Office—under date of May 18, 1860, ordering *the continuance* of the reservation of these lands which had been made prior to the decision of this Court, in 23 *How.*, 66.

(Record, p. 35.)

IX.—That notice No. 661, continued the reservation which had existed previously.

The language there used did not at all imply that the Land Office understood that the reservation had been *removed* by the decision of this Court; but, on the contrary, it is evident that the Land Office then understood that the reservation was not removed by that decision; for the terms of the notice were—that "the lands along the Des Moines River in Iowa, and within the claimed limits of the Des Moines grant, in that State, above the mouth of

the Raccoon Fork of said river, *which have been reserved from sale heretofore*, on account of the claim of the State thereto, will *continue reserved* for the time being * * * notwithstanding the recent decisions of the Supreme Court against the claim. This action is deemed necessary to afford time for Congress to consider, &c." Dated 18 May, 1860.

It will be observed that this notice speaks of these lands as having been "reserved heretofore," and says that they will "*continue* reserved." If it had been supposed that the decision of the Court of 7th April, preceeding reported in 23 *Howard*, had *removed* the reservation, then if the Commissioner had power to act further, it would have been necessary to make a new order of reservation; but so far from doing this, he says the lands will "*continue reserved notwithstanding*" the decision of the Court. If the decision of the Court legally operated to remove the reservation, then it would not be in the power of the Commissioner to continue it. Very probably the Commissioner thought that after that decision it might be competent for the department to initiate steps to get the reservation removed; instead of doing so, however, he thought it equitable that Congress should have an opportunity to decide upon the matter, and therefore the lands were to "continue reserved." It is clear, therefore, that the Land Office then understood that decision as we do now, as not removing the legal reservation of the lands which had been previously made.

The subsequent letters of the Commissioner in June and July, 1860, and the letter of the Secretary of the Interior, of September, 1860, given in evidence (Record, p. 72,) show that the Department acted upon that view, and determined to continue the reservation, at least "to the close of the (then) next session of Congress"—which would expire 4 March, 1861, and before its close, on 2d March, 1861, the Joint Resolution was passed by Congress confirming the

title to all the lands which had been approved and certified.

There are other parts of the counsel's argument to which we will briefly refer. And we say:

X. The positions thus taken by appellant's counsel are not well founded.

(1.) He quotes *a part of the debate* in the Senate upon the passage of the Joint Resolution of 2d March, 1861, as evidence of its meaning; but adds "*It is true Mr. Grimes* (Senator from Iowa,) *expressed a different opinion*," *&c.*

What may have been said in debate in one house, or in both houses, prior to the passage of an Act of Congress, should not influence this Court in determining the meaning of the law as finally enacted: much less can the isolated remarks of two or three Senators when others "expressed a different opinion," be taken as indicating the intention of the majority of the two Houses of Congress.

(2.) Counsel for appellant argues that no title could pass by the Joint Resolution of 2d March, 1861, until after the Land Officers should ascertain, and certify the lands thereby intended to be granted; and he cites and comments on several decisions of this Court as sustaining his position. We think that he misapprehends the cases cited.

18 Howard, 173 Cooper *vs.* Roberts, was a case where, in 1836, Congress had granted to Michigan every *sixteenth* section for the use of Schools. The lands were not surveyed until 1847; and *prior to the survey* Congress provided for the sale of mineral lands—and the land in question in the suit was of that character—and the question was which of the two Acts of Congress controlled the land. In that case, the Court said that

Courts of Justice could not make out and define the land (that is *survey* it), but when the political authorities have performed this duty (that is completed the survey of the land so as to show what land was included in the *sixteenth* sections), "then *the grant attaches* to the land and makes a legal title," and in that case the first Act of Congress was held to have conveyed the title.

So in 18 How., 29 Kissell *vs.* St. Louis Public Schools —Congress had in 1831, released to St. Louis "all the right, title and interest of the United States" in certain lots; *almost in the language of the Joint Resolution of 2d March*, 1861, involved in this case; and the Court held that "the Act of 1831, *vested the title to these lots in the city*," but that they depended for their specific identity *upon the surveys* to be thereafter made by the Government.

So in 17 How., 403, West *vs.* Cochran, it was held that the Courts could not fix the boundaries of "vague grants," either by survey, or otherwise And that the title granted could not attach to any particular land until *the survey* was made.

Applying the doctrine of these cases to the one under consideration, and we understand the result to be as stated by this Court in 18 How., 29, that the Acts of Congress "vested the title" to the granted lands in the State of Iowa; but as it was impossible to say what particular lands were embraced in the *odd* numbered sections until after they were surveyed, the title although vested in the State, did not attach to the particular lands granted until after they were surveyed.

We have not contended for any other doctrine—but we claim that these lands were reserved from sale in 1849, and were approved to the State as fast as they were surveyed—and the title attached as soon as they were so surveyed and approved; and then the title so attaching to the lands related back to the date of the grant.

(3.) Appellant's counsel also argues that if the State acquired a title under the Acts of Congress, it did not *enure* to the State's grantees; and he claims that this is a new question, and that Section 2,210 of Code of Iowa, Revision of 1860, was not brought to the attention of this Court in the case of Wolcott reported in 5 Wallace 681, and that therefore the decision in that case is not an authority upon this point. The counsel is mistaken as to *the fact;* for in the printed argument of defendant in error in that case, at page 39, the point was distinctly made that any after acquired title of the State would enure to the benefit of its grantees; and in support of the position, 15 How., 588, Delauriere *vs.* Ericson, and Section 2,210 of the Code of Iowa were cited.

This point was thus presented and distinctly decided in 5 Wallace, 681; and the Supreme Court of Iowa necessarily decided the same point in the case of Stryker *vs.* Polk County, 22 Iowa, 131, already cited.

(4.) Counsel objects that even if the State of Iowa acquired a good title to the lands, it did not dispose of them in accordance with the Acts of Congress; and makes other similar objections: in reply to which it is only necessary to say that no party except the United Stated can insist upon any such objections. In the language of this Court, in Baker *vs.* Gee, 1 Wallace, 333, "If the United States do not object, no other party can." And so, as to the objections made by counsel as to the deeds and patents from the State to the Improvement Company, we say that no other party except the State can raise any such objections.

(5.) Counsel also argues that a patent is of itself evidence that all necessary pre-requisites had been observed, and assumes that appellant's case is fully made out by the production of the patent alone, and that it is incumbent upon the respondent to show affirmatively that the patent was not authorized.

We suppose that if two parties claim title to the same land by grant from the Government, the first grant will prevail, unless the second claimant can show that, for some reason, the first was not lawfully made. If two parties hold by patent, the oldest patent would prevail, unless it could be shown that it was not lawfully issued; in such case the oldest title would be *prima facie* proved by the production of the patent, and the *onus* of proof would be on the holder of the junior patent, to show that the first was not authorized.

And so in this case. The respondent Welles claims a title under the grant made by Congress on 8th August, 1846, and 2d March, 1861, and 12th July, 1862; while the appellant claims under a grant by patent of 15th October, 1863; and the *onus* of proof is on the appellant to show that the respondent did not acquire title by the acts aforesaid.

Consequently, the *presumptions*, if any are to be made by the Court, will be in favor of the older and not of the junior title; and as the Government officers approved these lands to the State, the *presumption* is that at the time of such approval there was no existing pre-emption claim or other legal impediment to the lands being transferred to the State; and it is not for the holder of the older title to prove that the lands were reserved at the date of appellant's patent, and that the patent was therefore void; but it is for the holder of the patent which is the junior title, to show affirmatively that the lands were liable to pre-emption, and were not reserved at the date of appellant's entry, and that therefore a title was acquired which was older in date than that of the respondent.

But the appellant insists that the respondent has no title, because, he says, the State, by a transaction with the Land Office, in 1866, made an *adjustment* of the Des Moines River grant, in and by which it agreed to receive, and did receive *indemnity* for the lands claimed by the Des Moines

Company and its grantees, and that, therefore, the respondent is concluded by the Acts of the State.

In other words, it is claimed that the State—eight years after it conveyed these lands to the Des Moines Company—traded them back again to the United States, and took other lands for them, elsewhere, and that this transaction, made without consulation with, or the sanction of, the prior grantees of the State, cuts off their title to the lands which they have held by contract of purchase since 1854, and by conveyance by patents and by special legislative enactment since 1858.

It is difficult to argue against a proposition so monstrous, and yet it is put forward deliberately, and in apparent sincerity, and it must be responded to respectfully.

It is shown by the affidavit of Mr. Harvey (Record, p. 71) that this *adjustment* was without knowledge of or authority from, the Improvement Company, to which the State had conveyed the lands. And we submit:

Seventh Point.—The adjustment made between the State and the Land Office in 1866 could not in any manner affect the legal title to the lands, which had previously vested in the Des Moines Company and its grantees by the legislation and patents of the State in 1858.

The appellant argues that that "adjustment" was made in pursuance of a law of the State, and was afterwards ratified by the State, and that such legislation by the State must be deemed to repeal the Joint Resolution of 22d March, 1858, so far as it granted these lands to the Des Moines Company and its assignees.

But we say:

I. The law of Iowa under which such adjustment was made did not purport to authorize any interference with the title

to any lands which the State had previously conveyed to the Des Moines Company.

It recited that :

"Whereas, an *excess* of land, beyond what the State was entitled to receive had been certified to it under the 500,000 acre School Grant, which excess had not been recognized, nor satisfaction therefor rendered to the General Government ;

And :

Whereas, the claims of the State against the United States, arising under the Swamp Land Grant, remain in an unsettled and unsatisfactory condition :

And :

Whereas, the lands falling to the State under the Joint Resolution of March 2d, 1861, and Act of Congress of 12th July, 1862, have not been certified or approved to the State :

And :

Whereas, the interests of the State and her grantees demand a speedy settlement of all said matters."

Therefore, &c. :

A commissioner was appointed "on behalf of the State of Iowa, to adjust with the General Government all the matters and claims aforesaid."

There was nothing in the law which pretended to authorize the Commissioner to release to the General Government any lands which had been certified to the State under the Act of 8th August, 1846, or to trade off those lands for any others, or to receive indemnity for them. The only reference made to them, in the Act, was in the preamble above quoted ; and so far as that indicates the object of the law in relation to these lands, it was to get them "certified and approved to the State." Certainly the object was *not* to trade them off, and receive other lands in their stead.

And :

II.—The "adjustment" made did not purport to divest the title which the State had once had and had already transferred in the lands in question.

It was a mere statement of an account, on one side of which the State was credited with 558,004 acres, as being the whole area of the grant above the Raccoon Fork; and on the other side of the account the State was charged with sundry tracts of land which the Department had certified as passing under the grant, and also with a special certificate for 297,603 acres, which was supposed to represent indemnity lands to which the State was entitled under the Act of Congress of 12th July, 1862.

By that Act, Congress extended the grant made by the Act of 8th August, 1846, to the northern boundary of the State; and, provided, that if any of the lands thus granted had been sold or disposed of *by the United States* (exclusive of those released to the grantees of the State by the Joint Resolution of 2d March. 1861,) that, in such case, the Secretary of the Interior should set apart, in lieu thereof, an equal amount of other lands in the State.

In making this "adjustment" the agent of the State and the Land Office *assumed* that the United States *had disposed* of a large quantity of the granted lands by the Act of 15th May, 1856, granting lands to Iowa for railroad purposes. In other words: It was assumed that of the lands which the State would otherwise have received under the River Grant it *had already acquired title to* about 233,453 acres under the Railroad Act; and it was as *indemnity* for these lands, and others disposed of under the Swamp Act, &c, that the special certificate for 297,603 acres was issued.

But soon after the transaction—which in its terms amounted to nothing more than an entry in book-keeping, whereby the *accounts* upon the ledgers of the respective parties were made to agree—this Court, in 5 *Wallace*, 681, Wolcott *vs.* Des Moines Company, settled the construction of the Act of 15th May, 1856, granting lands for railroad purposes, and decided that none of the lands which had been approved and certified under the Des Moines River

grant were included in the railroad grant, or disposed of thereby.

It followed from this decision that the "adjustment" spoken of had proceeded upon a wholly erroneous construction of the Act of 12th July, 1862, and that the State was not entitled to *indemnity* for the lands supposed to have been disposed of by the Railroad Act, and therefore the special certificate for 297,603 acres had been improperly issued.

The evident and only remedy is for the Land Office to correct the error and charge back to the State the excess in the amount thus allowed for indemnity, or to get it confirmed by Congress as an additional grant, but it cannot be taken out of our lands by virtue of any such "adjustment" between third parties.

III.—This "adjustment" did not deny the title of the State, but on the contrary, it *admitted* the title of the State to *all the* lands included in the approved lists under the Act of 8th August, 1846. In reporting this adjustment to the State Authorities, the Commissioner said, "The State in this settlement is credited with the whole amount of land in odd sections, lying within five miles of the Des Moines River, from the 'Raccoon Fork' to the northern boundary of the State;" but *the theory* of the "adjustment" was that the State took title to a large quantity of the lands under the Railroad grant, and, therefore, was entitled to *indemnity* for the land so taken. But, in 5 Wallace, 681, this Court decided that the State did *not* take title to these lands under the Railroad grant, but *did* take title under the Des Moines River grant. It would make no difference to us whether the State's title was acquired under the one law or the other. We hold the title by grant and patent from the State. *How* the State gets title is of no moment to us, provided only that it *had* a title.

IV.—Neither the Land Office nor the State had authority to make such an "adjustment;" and, if they had power to do

so as between themselves, it was not binding upon the State's grantees, who held under the legislation and patents of 1858.

(1.) We have already seen that this Court, in 5 *Wallace* 681, decided that no part of the Des Moines River grant had been disposed of by the United States by the Railroad Act of 15th May, 1856, and consequently no *indemnity* was due to the State therefor, and the Land Office had no power to give the State 300,000 acres, or any other amount *as* indemnity.

(2.) The State had no authority at all to act in adjusting this Des Moines River grant, *as to the lands* which it had previously conveyed to the Des Moines Company, for by the Joint Resolution of 22d March, 1858, the State transferred to that Company, not only the lands, but also "full power to settle all errors, false locations, omissions or claims in reference to the same, and all pay or compensation therefor by the General Government."

The State thus granted the lands which had been certified, and if any errors had been made by the officers of the United States, the State gave said Company "full power to settle" said "errors" and all "claims in reference to the same;" and, if the claims were well founded and should be recognized by Congress, then the State transferred to said Company "all pay or compensation therefor by the General Government."

After this legislation *the State* had no power to act in any of these matters to the prejudice of said Company or its grantees.

The appellant argues that the State's grants are quit-claims and that the Joint Resolution of 22d March, 1858, could be repealed by the General Assembly; and that the legislation authorizing and ratifying the adjustment of 1866 was, in effect, a repeal of the grant made in 1858 to the Des Moines Company.

We have already seen that the grant made by the State to the Improvement Company was *not* a quit-claim, but was *a warranty*; and that the "adjustment" of 1866 did not deny the State's title but admitted it. And in addition we say:

V.—The State had no power to repeal directly or indirectly the Joint Resolution of 22d March, 1858, after it was accepted by the Company, for it was a *contract* under which private rights had become vested. And such an attempt by the State would be an act impairing the obligations of contracts, and therefore unconstitutional and void.

In 6 *Cranch Rep.*, 87, *Fletcher* vs. *Peck*, this Court applied this doctrine in a case where the State of Georgia had attempted to repeal an act making a grant, upon the ground that the original act was passed by fraudulent devices But as private rights had vested under the grant, the Court held that it was a contract, and the State of Georgia could not constitutionally repeal it, and thus defeat private rights which had vested under it.

As a general proposition, it is unquestionably true, that one legislature may repeal a law enacted by its predecessor; but such repeal cannot defeat private rights which became vested before the repeal; and, when an act of legislation is in, and of itself, a contract, it cannot be repealed.

At page 135 of 6 *Cranch*, Ch. J. Marshall, in stating this general principle, says: "But, if an *act* be done under a law, a succeeding legislature cannot undo it. The past cannot be recalled by the most absolute power." Again: "*When then a law is in its nature a contract*, where absolute rights have vested under that contract, a repeal of the law cannot divest those rights." At page 137: "A grant, in its own nature, amounts to an extinguishment of the right of the grantor, and implies a contract not to re-assert that right. A party is, therefore, always estopped by his own grant."

That was a case in which fraud was set up to justify the action of the Legislature, but nothing of that kind is pretended here.

That was a case of mere grant, and was not, like the case under consideration, in its very terms a "contract," and "binding *upon both parties thereto.*"

But the appellant insists that "a Federal Court has no power to pronounce a State law void, because it conflicts with a State Constitution," and cites 3 *Peters*, 280, Jackson vs. Lamphear, as authority for the proposition.

The case cited by the counsel was one where the Legislature did not attempt to impair their own prior grant, and would not be in point here for the purpose for which it is cited. The language of the Court in that case, p. 289, was: "*The State has not by this act impaired the force of the grant; it does not profess or attempt to take the land from the assignees of Cornelius* (the grantee of the State) *and give it to one not claiming under him; the grant remains in full force*, the property conveyed is held by his grantee, and the State asserts no right to it."

Does the counsel regard that case as an authority to show that the State of Iowa could, if disposed, impair the force of its own contract and grant?

The counsel also lays down the proposition that "this Court has no right to declare a State law void, because it divests antecedent vested rights," and cites 8 *Peters*, 88, Watrous vs. Mercer, to support it.

In that case the Court examined the law in question and decided that *it did not impair the obligation of any contract;* and, *therefore*, the Court said, it could not be declared void "from the mere fact that it divests antecedent vested rights of property," and the Court referred to 2 *Peters*, 380, Saterlee vs. Mathewson, as containing the

doctrine which the Court announced. Referring to the case cited from 2 *Peters*, the language of the Court is: "There is no part of the Constitution of the United States which applies to a State law which divested rights vested by a law in an individual, *provided its effect be not to impair the obligation of a contract.*" It is this *proviso* which the counsel has overlooked, and which is found in every case cited by him.

VI.—The Land Office had no power in 1866, to deal with the State in relation to these lands, because by the act of 12th July, 1862, Congress itself interpreted the Joint Resolution of March 2d, 1861, and declared its legal effect by stating that the lands therein referred to had "been released by the United States *to the grantees of the State of Iowa*," under said Resolution; and all the executive officers were bound to know that the lands belonged to the State's *grantees*, and not to the State itself; and the same act of Congress had in terms *confirmed* the disposition which Iowa had made of them by the Joint Resolution of the General Assembly of 22d March, 1858.

(1.) The language of the Act of Congress is, "excepting those released by the United States to the *grantees* of the State of Iowa, under Joint Resolution of March 2d, 1861."

(2.) By the said act of Congress "Consent is hereby given to the application of a portion thereof (the granted lands) to aid in the construction of the Keokuk, Fort Des Moines, and Minnesota Railroad, *in accordance with the provisions of the act* of the General Assembly of the State of Iowa, *approved March* 22d, 1858."

The "Act of the General Assembly" here referred to and "approved 22d March, 1858" is the Joint Resolution by which the settlement was made between the State and the Improvement Company, wherein the State conveyed to said Company all the lands which had been

certified prior to that date; and which among other things contained the following: "Provided also that if Congress shall permit a diversion of the lands of said Des Moines river grant * * the said *remaining* lands *after the payment of all liabilities as aforesaid*, * * * shall be granted to the Keokuk, Fort Des Moines and Minnesota Railroad Company, to aid in the construction of a railroad up and along the valley of the Des Moines river, &c."

By the settlement made in this act of the General Assembly, the Improvement Company released to the State its claim to all lands *not* certified upon condition that the State would "SECURE" to it all the lands which *had* been certified; which the State agreed to do; and then disposed of the "*remaining*" lands to the Railroad Company provided Congress should consent. The act of the General Assembly contained at length *the provisions* necessary to carry out this arrangement; and Congress *consented* to the disposition made of the remaining lands * * * "*in accordance with the provisions* of the act."

We submit that the "consent" thus given by Congress is a confirmation and ratification of the disposition thus made by the State of *all* the granted lands; for when Congress confirms the disposition made of certain "remaining lands" "in accordance with the provisions of the act" it must be deemed to consent to all those provisions which are necessarily to be considered in ascertaining the particular lands intended by the word "remaining" as there used. In this case the act granted to the Improvement Company all the certified lands, and the "remaining lands" to the railroad. There was no possible way of determining the particular tracts thus "remaining" without first ascertaining what had been certified prior to the act of 22d March, 1858, and which the State thereby granted to the Improvement Company; and besides there could not be any lands "remain-

ing" which the State could transfer to the Railroad Company except by virtue of the very settlement made by the Joint Resolution of the General Assembly of 22nd March, 1858—for without that settlement *all* the lands included in the Des Moines River grant would have belonged to the Improvement Company under its contract of purchase from the State of 9th June, 1854.

Congress, therefore, by the "consent" thus given in the act of 12th July, 1862, must be deemed to have ratified the entire transaction between the State and the Improvement Company, set forth in the Joint Resolution of 22nd March, 1858.

A criticism may be made that the word "*Act* of General Assembly" used by Congress is here interpreted as referring to the "Joint Resolution."

There was an Act of the General Assembly of Iowa, of 22nd March, 1858, and also a Joint Resolution of the same date, both referring to this matter; and we have interpreted the Act of Congress as referring to the Joint Resolution—and not to the Act—for the following reasons:

(1.) We suppose it is perfectly proper to speak of the Joint Resolution as an "act." The General Assembly of Iowa, in referring to this Joint Resolution in 1860, spoke of it as "an act conveying" lands to the Improvement Company.

Code of Iowa, Revision of 1860, *p.* 914-915.

(2.) Congress refers to an act *approved* 22nd March, 1858. This Joint Resolution in the Revised Code of Iowa, is set forth as "*approved* March 22, 1858," while the act is set forth as "passed March 22, 1858 — took effect April 7th, 1858."

(3.) The act of Congress and the Joint Resolution both use the same language in speaking of the grant as being made "to aid in the construction of a railroad, &c."

But if it were to be conceded that Congress referred to the *Act* of 22d March, 1858, and not to the Joint Resolution, the legal effect would be same ; for

(4.) The *Act* of 22d March, 1858, grants to the Railroad Company "all the lands" granted for the Des Moines River Improvement "excepting all the land belonging to said grant heretofore sold by the State of Iowa, or which may hereafter *be conveyed to the Des Moines Navigation and Railroad Company*, by virtue of a *settlement* now pending between the State and the said Company."

If Congress referred to this act, it must necessarily be deemed to have approved of the *settlement* thus made, and of such "conveyance" as might be made in pursuance thereof.

We, therefore, claim that by the Act of 12 July, 1862, Congress has *confirmed* the conveyance made by the State to the Des Moines N. & R. R, Company, as fully as if it had in terms referred to it, and ratified it.

We owe to the Court apologies for this lengthy argument. Many of the points elaborated may not require enforcement in this tribunal. A mere suggestion of them would be sufficient. But the counsel for the appellant has correctly said that it was very important that there should be a speedy decision of the case; and we may be permitted to add that it is equally important that there be a *final* decision of the questions involved. The decision of this Court in 5

Wallace, 681, Wolcott vs. Des Moines Company, has been accepted as final by all parties interested, where it is admitted to be applicable. But it is attempted to make distinctions and to limit the effect of that decision. The Court there unqualifiedly decided, upon the same facts as here shown, that the lands in question had been reserved by competent authority, and therefore were not affected by the railroad grant; yet the appellant insists, in this case, that they were not so reserved as to prevent their being taken upon pre-emption.

Wherever the title upon which we rely has come before any judicial tribunal for adjudication it has been sustained. We have seen that it was upheld in repeated cases by the late Secretary of the Interior, Mr. Browning, against pre-emption claims.

We have seen that the Supreme Court of Iowa holds the title to be good, and compels the holders to pay taxes on their lands from the date of the conveyance to them by the State in 1858.

In this very suit the United States Circuit Court in Iowa, holds the title to be good, and the appellants patent, issued in 1863, to be void.

And this Court in 5 *Wallace* 681, in two judgments —one affirming and the other reversing the decisions of the inferior tribunals—sustained the title, holding that the confirmatory Acts of Congress related back so as to make good the State's conveyances in 1858.

We claim that the confirmatory Acts of Congress have made to the State of Iowa, and its grantees a title which is *good, as against the Government and all parties claiming under it by title subsequent*, from the enactment of the original Act of 8 Aug., 1846, and the date of the certificates issued thereunder.

We claim also that our titles are proved by the laws and records of the United States, and the State of Iowa: And that there is no question of fact to be shown by parol testimony, which can affect or impair them. And,

That the Land Officers have had no right to interfere with our lands, since the partition of them between Iowa and the United States, was completed in 1851–3, because then their power over them was exhausted.

It is for the true interest of the State of Iowa, and of all claimants, that the title to these lands should be determined by this Court, in such a manner as to place the questions involved beyond all possibility of future controversy.

If, as we claim, no pre-emptions upon these lands, are good, settlers have nothing to gain and much to lose, by postponing the day of a final decision. Enterprizing lawyers may for a time mislead themselves and their clients as to the prospects of ultimate success—but when this Court with all the facts before it finally decides, all will yield a cheerful obedience to the decision

Hoping that the questions involved may be determined *finally*—and so that there can be no possible misapprehension as to the scope, intent, and extent of the points decided—and that thus we may reach an end of this long controversy, and renewing our apologies for this protracted argument, we submit the case for the judgment of this Honorable Court.

EDWIN C. LITCHFIELD,
Of Counsel for the Respondent.